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# THE BRITISH CONSTITUTION

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# THE BRITISH CONSTITUTION

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## PREFACE TO THE SECOND EDITION

The years of war and its aftermath are revolutionary years. They contrast strangely in their political atmosphere with that which prevailed when this book was written. We are still in the midst of them. Many systems of government throughout the world have been transformed; yet, if the fighting is over, the stability of peace and economic or even political world order are hardly with us. While, except in a few details, the British Constitution has survived unaltered, maybe it too has undergone changes deeper than are yet apparent. It is one of the central themes of this study that a constitution is a reflection of, and can only be understood in relation to, the social system which underlies it, and that is precisely what is most clearly in a state of flux. The cost of war and taxation have brought about changes in the distribution of income the political significance of which may be profound. They tend towards equality. A general election has resulted for the first time in a House of Commons with a socialist majority intent on considerable changes in the control of industry, the ownership of property, and in the social system more generally. The fact of that majority is itself indicative of a transformation in this country's political thinking. The contrast with ten years ago is striking. If the "lost years" between the wars were sterile and marked by a reactionary political temper, it was as unpopular then to assert this as it would be now to claim the contrary. The modern state is a changing state acknowledging new demands for a planning of social organisation, adopting new forms to meet them, and providing new services, under the impact of a revolutionary widening of political ideas.

Such changes of political climate as well as in the social background have yet, however, to shew their effects on the working of the British Constitution. The external forms have indeed been remarkably little changed. For example, the great extension of nationalised industry and central controls has increased the number of public boards, of

government departments, and of inter-departmental committees and other mechanisms without materially affecting their substance or doing more than underline their problems. So far, the main result of these changes has been to pose in still sharper terms the question with which this study closes. The strength of the Constitution in the past has lain in the singleness of training among those who controlled its working—would it respond efficiently to the coming into political dominance of a different element with different demands upon the State? What can be added is to point out that the shake up of the war has done more to modify the rigidities of the social structure than, without it, could have been brought about by anything short of a revolution. Thus it may have opened easier ways of transition.

But it rests with the post war years of reconstruction to determine the shape of the new society and to adapt the constitution to them. No one can yet say whether the ultimate outcome of the revolutionary years will be to stabilise the equalitarian tendencies in a more democratic society, or to usher in a new period of sterility and reaction such as that which followed the first world war. Yet in view of them it is surprising how little has needed changing in the text. Apart from minor detail (where the text has been altered or footnotes added to bring it up to date), there are only three points—conferment of the local government franchise on all at the age of twenty-one, the extension of the State educational system, and the considerable democratisation of the armed forces. The text has been revised in relation to the first two. With regard to the third, we cannot yet know what the final result of war followed by peace time conscription will be. That it will be any serious modification of the salient features of their peace-time structure as described here is by no means apparent. The text has therefore been left practically unchanged, and since the figures of cost have not yet settled down to a peace-time basis no attempt has been made to bring them up to date.

October 1947

H. R. G. G.

## PREFACE TO THE THIRD EDITION

The text has now been completely revised and brought up to date. I am indebted to Mr. L. J. Tivey and to Mr. J. K. Eaton for their help in this not inconsiderable task, and to the London School of Economics and Political Science for making their research assistance available to me.

H.R.G.G.

*May 1954*



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## Chapter I

### INTRODUCTION

#### I

The British Constitution is more than a body of institutions working in accordance with principles laid down in law or expressed in conventions It is society in its political aspect. We cannot understand its nature without reference to the chief characteristics of society We need to bear in mind the way in which property is held, the national income divided, and the organisation of production controlled, because the real power in society is determined by such things. We must know also what are the intellectual and psychological needs of the citizen and how they are met, for the method of meeting them is one way in which power is used and political action finally determined It is for such reasons as these that some discussion is called for, and is entered into below, of the Press, the educational system, and the Church, and that *reference is frequently made to the social character of institutions and of those who operate them* But before proceeding to a more particularised investigation, some general observations need to be made along those lines which orthodox study of the British Constitution, issuing perhaps too much from a legalistic approach, has sometimes been too ready to regard as sufficient.

What might fairly be termed the chief organic principle of the Constitution is the legal sovereignty of Parliament. No other body can lawfully overrule its decision. The Executive in England has not the power of issuing decrees which shall have the force of law save in so far as that power is conferred on it by Parliament itself and so can be taken away by Parliament. The famous exception, the Statute of Proclamations which only remained in force for a few years, is in one sense an illustration itself of this principle, since it was considered necessary to confer the decree-power on

Henry VIII by Act of Parliament. There is nothing legally which Parliament cannot do. If much eloquence has been wasted on this omnipotence, if in practice there are, of course, important limitations on the power of Parliament, the principle is nevertheless fundamental. It means that no authority can legally challenge the competence of Parliament. If in practice Parliament can alienate some of its powers, as for instance by creating a dominion legislature in imitation of itself, it cannot be prevented from repealing the Acts of any previous Parliament, at any rate in so far as they operate within the United Kingdom. It is claimed that Parliament can even prolong its own life indefinitely with complete legality. But it must be remembered that this supremacy of Parliament is itself nowhere laid down as a fundamental and unalterable law. That supremacy is the expression of custom, the result of a long and ultimately successful struggle against ordinance-power of the King, a generally accepted doctrine. It is in this way only that it is an organic principle of the Constitution.

Dicey argued that what he called "the rule of law" was the most striking feature of the English political system. By the rule of law he meant, first, that "a man may with us be punished for a breach of law, but he can be punished for nothing else." He meant, secondly, that no man or class is above the law, and, lastly that "the constitution is the result of the ordinary law of the land," and is "not the source but the consequence of the rights of individuals." The rule of law is closely interwoven with the supremacy of Parliament. That supremacy is a part of the law, being based on custom. It provides an indisputable means of expressing and developing the law. The citizen, the courts, the administrative official, the executive, the Queen, are all subject to the rule of law. But if Parliament has the final competence for expressing the law, it has that final competence by virtue of a principle of the law, which therefore must be behind and above Parliament itself. There is a sense in which Parliament, like the citizen, is subject to the rule of law. At least in

normal times, however, that subjection is only of abstract importance because there is no body superior in authority to Parliament

But, if the supremacy of Parliament is the chief organic principle of the Constitution, there are other principles too, and it is not impossible that they should conflict with it in a moment of fundamental social cleavage. It may be doubtful what constitutional significance should be attached to the principle "no taxation without representation", in effect laid down as a limitation on future Parliaments in the Taxation of Colonies Act, 1798. But there can be no doubt whatever that the political supremacy of the electorate is to-day quite as fundamental an organic principle of the British Constitution as the legal sovereignty of Parliament. That these two principles are capable of conflict is obvious. Parliament prolonged its life during the last war because of the emergency, it prolonged its life by the Septennial Act, 1716, because it was feared that the actual majority in the Commons would be replaced by a Jacobite majority if elections were held. There was then a keen social cleavage. But there is no constitutional issue from a conflict between a Parliament extending its own life by virtue of its supremacy and an electorate claiming that such an extension is unconstitutional because it contravenes popular sovereignty, save in so far as the judiciary or the administration or the forces of order prefer one principle to the other. That little or no attention has been paid to such potentialities of conflict as inhere in the Constitution is proof of how far that Constitution rests on a community of interest among those who in practice control its operation. The understandings through which it works are possibly only when social cleavage is absent. Its efficient working, that is to say, depends on the existence of a larger common than opposed interest among those who operate it. When keen division has developed in recent times it is highly significant that, as we shall see,<sup>1</sup> conventions have been suggested by the most authoritative

<sup>1</sup> Below, p 17

exponents of the Constitution which are aimed at limiting the supremacy of Parliament by reference to the supremacy of the electorate, if there is danger that the former may produce important change.<sup>1</sup>

That Parliament contains expressions of the three competing principles of government—monarchy, oligarchy, and democracy, has made it possible for the central theme of Parliamentary supremacy to remain unchallenged. But within Parliament itself, by which is meant in this context Queen, Lords, and Commons, changes have taken place which have shifted the emphasis from one partner to another. Conventions limiting the power of the Lords, which had grown up since 1660, were given the force of law by the Parliament Act in 1911, but they were given that force only because it was shown in 1909 and 1910 that they need not be regarded that there was not enough sanction behind them. Restrictions on the authority of the Queen have remained as conventions. The Queen acts only on the advice of her ministers. The Queen's legal power of veto has become obsolete, not having been exercised since the time of the House of Stuart. How far these conventions are accepted and are likely to be observed is discussed below,<sup>2</sup> but it is worth pointing out here that when the policy of a Liberal Government and House of Commons met with strong opposition from the House of Lords and from those surrounding the King there was not wanting the highest opinion among constitutional lawyers and conservative leaders to suggest that neither convention need be applied. So that we are led to the conclusion, which we shall find reinforced, that the Constitution as it works only because of a general agreement among opposed parties to work it, that the understandings upon which its efficient operation depends are themselves the product of a common interest. At moments when that common interest disappears or becomes less important than

<sup>1</sup> *Law of the Constitution*, eighth edition, pp. 179 et seq.

<sup>2</sup> See chapter on the Queen

conflicting interests, that foundation of its effective working is liable to be removed.

## II

The laws of the Constitution do not differ from other laws either in form or in source of origin. Parliament is both a legislative body and a constituent assembly. The difficulty of changing the British Constitution, as of any law under it, depends on the power and the tenacity of those who wish to change or to retain it.

Because of the similarity of form there is less facility in distinguishing between what in continental practice would be called the basic law, and other law. But we can safely say that certain laws are of major constitutional importance. Magna Carta and the Bill of Rights are clearly of this character. So are those laws which regulate institutional forms and functions. Such are the Settlement Act, the Abdication Act, the Royal Marriages Act, which regulate the succession to the throne, and also the Civil List Acts. The Parliament and the Representation of the People Acts are examples of laws which affect the functions of institutions. So are the Judicature Act and the Acts establishing particular ministries or public boards. The Acts creating dominion constitutions and the Statute of Westminster, as also those which regulate the electoral process, such as the Ballot Act, the Corrupt Practices Act, the Redistribution Acts, are of obvious constitutional importance. To them must be added those laws which establish and define the powers of the civil and armed services and local authorities. Nor must it be forgotten that a vital principle of international law contained in the Covenant of the League of Nations, which in some continental countries was given the force of constitutional law, was also—through the Treaty of Peace Act—a part of the law of Britain.<sup>1</sup>

But even the most exhaustive list of such laws would not

<sup>1</sup> The Charter of the United Nations was approved by Parliament in August 1945, but not enacted

provide anything like a complete picture of the constitutional framework. For that we need to know the customs and conventions by which the interaction of institutions is determined. The most important of these, although by no means all, relate to the Cabinet whose existence is hardly known to statute law.

Conventions are of three kinds. There are first those which are simply precepts of general guidance or rules of convenience for ensuring a proper harmony between Parliament and the Executive in the light of the principle of Parliamentary sovereignty. For examples nothing can be better than to cite Dicey's quotations of Freeman: "The Cabinet are responsible to Parliament as a body, for the general conduct of affairs" "They are further responsible to an extent, not however very definitely fixed, for the appointments made by any of their number, or to speak in more accurate language, made by the Crown under the advice of any Member of the Cabinet" "The party who for the time being command a majority in the House of Commons have (in general) a right to have their leaders placed in office." "The most influential of these leaders ought (generally speaking) to be the Premier." "A Cabinet, when outvoted on any vital question, may appeal once to the country by means of a dissolution." Such conventions are observed because greater inconvenience would follow from their breach than follows from their observance. In the last resort, were they not observed, conflict with the law would ensue.

Secondly, there are conventions which aim at securing harmony between government and legislative action on the one hand and the electoral verdict or public opinion on the other. Since the legal framework of the British Constitution developed before the principle of popular sovereignty was accepted there is no legal sanction behind them, and they are therefore more indefinite and less sure of application. One convention of this character is that governments do not impose legislation of a keenly controversial nature unless

<sup>1</sup> Dicey *op cit*, pp 416-17

they have a mandate from the electorate. It is necessary that such an item of policy should have been a part of the programme on which the Government fought the previous election, or, if it was not, that the Opposition should show by its action or inaction that this is not a matter of keen controversy. This convention applies not only to legislation, but also to administrative or foreign policy. Another example is Freeman's "if an appeal to the electors goes against the Ministry they are bound to retire from office, and have no right to dissolve Parliament a second time." Behind these it may be said that there is something of a political sanction.

Dicey tell us<sup>1</sup> that it is constitutional for the King to dismiss a ministry which has a majority in the Commons if he has reasonable ground for believing that there is not a majority of the electorate behind it. He argues that this power is an illustration of the principle underlying what is here called the second type of convention, that which is designed to establish a harmony between the legal and the political sovereign. In fact what he is saying is that when the King dislikes a ministry he can get rid of it if he chooses a moment at which the electors also dislike it, and that if he does not dislike it a ministry can stay, however unpopular it may have become. It is true that Edward VII and George V each imposed a dissolution in order to get a clear indication of popular demand for what they regarded, with doubtful constitutional propriety, as a special intervention on their own responsibility in a conflict between the two Houses. But no sovereign since 1834 has in fact dismissed a government. When George V was most tempted to do this he was dissuaded by the knowledge that such action would be attacked as a royal intervention in politics. What Dicey called a convention is in fact not a convention at all. That the King has the legal power in form is not, of course, open to question. The legal power is not the point at issue. The point is that to exercise it may involve danger to the throne, and inasmuch as it does involve danger is unlikely to be indulged



in. But what is really highly significant in Dicey's argument is its revelation of a generally accepted view that the House of Commons can and should be checked in the exercise of its authority on the personal judgment of the King. In the same spirit he believes that the House of Lords may, again on its own judgment, check the House of Commons. If in both cases the ground alleged is "reason to believe" that the electorate would not endorse the action of the Commons, in practice this means that only when the King or the Lords oppose a measure of the Commons will they begin to explore electoral opinion, and that only if they think they can destroy the actual majority in the Commons will they force dissolution upon it. Thus conventions which Dicey defines as "rules meant to ensure ultimate supremacy of the true political sovereign, or, in other words, of the electoral body,"<sup>1</sup> are in practice regarded as a method of ensuring that supremacy only when there is reasonable ground for hoping that it will operate in accordance with the wishes and political tendencies of the King or the Lords. If, so far as the King is concerned, this is bad law, for it does not correspond with actual practice, it does reveal one important feature of the conventions or understandings through which the British Constitution operates. There is certainly a need for ensuring the application of the newly-established principle—yet one which was to some extent appreciated by as early a statesman as Chatham—that a government, that is to say a House of Commons, shall not carry out a policy directly counter to that for which the electorate gave it mandate. This principle has in fact been increasingly appreciated since Chatham first recognised it. But this does not mean that, because of an historical accident, or because there has not been a revolution in England for two hundred and fifty years, the authority with jurisdiction to judge between Commons and people should be a single gentleman, or should be seven hundred similar gentlemen. Such a suggestion may be of admirably conservative effect and highly obstructive of changes which

<sup>1</sup> *Op. cit.*, p. 428

they do not approve, but to claim it as an application of popular sovereignty savours more of the Conservative platform than of the academic chair.

/ There is a third category of conventions. These are understandings of a general kind aimed at the better functioning of a particular institution. The principle that no peer other than a law lord sits when the House of Lords is acting as Court of Appeal is one example. Another is the assurance to the Opposition in the Commons of adequate rights of expression. Again, that there shall be no interference in the internal affairs of a Dominion, and no taxation for home purposes of a colony, and that there shall be no extension of a Parliament's period of tenure, are other examples which arise out of the necessities of the continuance of the British Constitution as it is. A further example is that suggested by Dicey: "It is now the established habit of any reigning king or queen," he says, "to share and give expression to the moral feelings of British subjects." That the moral feelings so expressed are those of a certain limited but dominant section of society, that same section in whose interest other constitutional understandings are framed, is the lesson suggested below as arising from the events of the abdication.

The whole study of the conventions of the Constitution, as also the study of its working institutions, suggests the fundamental importance of this integrating factor of a single dominant upper middle-class behind the political system, which works through it, and for which it is largely a façade.

### III

*Orthodox accounts of the British Constitution attribute to it four characteristics that distinguish it from other constitutions in one degree or another. A word is called for in relation to each of them. Without any claim to exhaustiveness two further features need to be mentioned.*

The Constitution is unitary and not, like that of the United States of America, federal. This makes possible the

supremacy of a single institution, Parliament, as opposed to a document, a treaty, or written constitution. It means also that there is no need for a second principle of representation designed to secure the maintenance of the rights of its constituent parts, such as we find expressed in the American Senate. It strengthens the authority of the central government, but weakens local government; and it simplifies the allocation of functions between State and provincial bodies. The possibilities of movement, of speedy adjustment to changing needs, ought to be greater under a unitary than under a federal political system.

The British Constitution has a Parliamentary executive as distinct from a presidential executive. The close union between the lawmaking body and the body which administers the State, and which controls its forces, is thus characteristic of it. The dangers involved in deadlock between the law making, tax granting authority and the executive are absent. The right to govern flows through the legislature to the Cabinet, it is not separately conferred on a popularly elected chief executive and on a popularly elected Parliament, the right is not capable therefore of conflicting interpretation by two bodies having an equal moral claim to speak for the public. The risks of conflict or of inaction which result from such a separation of power are attested by a wide experience whether it be the Weimar constitution of Germany, the federal constitution of America, or the 1848 constitution of France.

Thirdly, the Constitution is "unwritten," and, fourthly, it is flexible. These two features are often but unjustifiably taken to be interchangeable. There is no codified and basic constitutional law having superior sanctity to other law. General principles are nowhere laid down with institutions to establish their special validity. No revolution has occurred to render necessary a thorough overhauling of the political system in all its intricacies and a co-ordination in the light of fixed principles, but change has been piecemeal and gradual, and it is found expressed in new customs or con-

ventions as well as in ordinary statutes. There is therefore, it is argued, a facility of reform, an adaptability, superior to more rigid written constitutions which have been created in one general act. Constitutional change in England is as easy, or as difficult as any other political change. How easy must depend on the general nature of the political system. If reform conflicts with the views of the House of Lords, or even of the Queen, it is subject to delays and special obstacles. If it conflicts with the interests of that section of the community which, as is suggested below, so largely controls the Press, the Church, and other organs of opinion, which has special privileges in the electoral process, and which so generally officers the administrative services and the armed forces, it is far from likely to be easy. Nor can we say that the Constitution, when the change proposed does not commend itself to this middle class, is really flexible. Moreover, those conventions which have grown up as an expression of the movement of the Constitution in the direction of democracy often have not, as has already been pointed out, that legal sanction which renders other changes more difficult. They are therefore less sure of application. Change in a non-democratic direction is more easy. In this respect, the Constitution is more truly flexible. On the other hand, it must not be presumed that all written constitutions are necessarily rigid. It is perfectly possible, as was the case with the Spanish Constitution of 1931, and with other post 1918 constitutions of Europe, to provide that the Constitution, though written, may be amended by a perfectly simple process. The lesson to be drawn from earlier experience of written constitutions has probably already been learnt. To make amendment possible only through a complicated and difficult process is often to render a constitution unstable and to invite revolution.

The contrast which has been suggested between the difficulty of change in a progressive direction and the ease of change in a reactionary direction under the British Constitution is borne out by a consideration of the extent to which individual rights and liberties are guaranteed by the Con-

stitution. The absence of any such special legal guarantee of rights as is often to be found, although with greatly varying effectiveness, in other constitutions, is a marked feature of the British political system. It is an understanding of British government, rather than an enactment, that the individual has freedom of expression, movement, association, and meeting, and that he is not bound to belong to any religious sect. But it would not be fair to say that there is in England any positive principle known to the law that a man may say what he thinks, or write it, or that he may join what body or hold what meeting he pleases. Nothing could be set in wider terms than the law of sedition or blasphemy. In practice this law is not applied save in "extreme" cases, and it is in a sense and with that limitation a principle that they should not be applied, but in order to change the practice there would be no need for changes in the statute book. The law of libel as it is actually enforced is a serious limitation on fair comment and criticism in the public interest. Police powers in relation to public meetings and processions, the restrictions imposed on associations and their activities by the Trades Disputes Act<sup>1</sup> afford similar evidence. But all that it is necessary to do here is to indicate that general absence of any special guarantee for such individual rights, which are the essential foundation of a democratic system.<sup>2</sup>

One further specially distinctive characteristic of the British Constitution is the continued expression which it contains of the hereditary principle, which has been for so long discarded by the great majority of other countries. But there are many other characteristics which could be mentioned—the fact that there is an established Church, the methods by which its civil service is organised, the principle of unspecialist control of the expert who carries out its administration, the dual nature of its educational system. All these are referred to implicitly or explicitly in the chapters which follow.

<sup>1</sup> Repealed by the Attlee Government.

<sup>2</sup> See below, p. 279 and further, Dicey, *op. cit.*, pp. 202 et seq.; *The Law of Public Meeting* (published by the New Fabian Research Bureau), and the first chapter of my *Reactionary England*.

## Chapter II

### THE HOUSE OF COMMONS

WHEN we examine historically the development of the present French National Assembly from the first revolution to the last the differences between itself and its predecessors are emphasised by differences of name and of constitutional form. When we consider the House of Commons we are handicapped, as with several other political institutions, by the necessity of calling different things by the same name. The House of which Bagehot wrote represented little more than a million voters; the House to-day represents some thirty millions. Yet there has been no revolution. Its name, its powers, its size, its way of going about its work are all practically unchanged. The House of Commons still legally occupies the centre of the British system of government. But in 1865, while a Member of Parliament had a constituency of about two thousand voters and could speak for only one in twenty-four of the population, he was more respected and powerful than to-day when every adult may vote, and when he speaks for about fifty thousand electors.

The British political system is described as a Parliamentary one. If this implies that the House of Commons exercises control over the Government as a general rule, or that the Cabinet is responsible to it, then it is a misnomer. In Bagehot's England the ordinary M.P. exerted a real authority. In the first thirty-five years of the reformed Parliament no less than eight governments were defeated by the deliberate action of private Members of Parliament. Their fate often depended on the course of debate. The strength of the arguments adduced by rival leaders, the power of their eloquence, would affect the issue. If governments frequently accepted defeat on minor questions without resignation, even such powerful Parliamentary figures as Palmerston, Gladstone, Disraeli were overthrown in turn by their failure to carry with them a majority of the Commons on a specific

issue of major importance. This was mainly due to the existence of several rival groups in addition to the two chief parties. Peel resigned after defeat on the Coercion Bill in 1846, Russell when the Opposition passed a Franchise motion against the Government in 1851 and again in 1852 when the Militia Bill was rejected. The Derby-Disraeli administration resigned in the same year when its budget was thrown out. Russell resigned after unsuccessfully resisting the motion for a committee of enquiry on the Crimean War in 1855, and Palmerston on being defeated over the Conspiracy Bill in 1858. In the following year Disraeli resigned on an amendment to the Address being carried. The Russell-Gladstone Government was defeated on its Reform Bill in 1866 and resigned. Gladstone's administration failed to pass its budget in 1885, and resigned without waiting to appeal to the country over which there would be delay because the necessary Redistribution Bill had not yet been passed. Clearly in such circumstances the individual Member was a politically significant person, and his position was likely to be a coveted one.

The theory of the Constitution was clear. The Member was a representative of his inferiors, he was not the delegate of his superiors. Sovereignty resided in Parliament and not, as it did according to French revolutionary theory, in the nation. The situation still appeared to be governed by the principles asserted by Burke in his famous address to the electors of Bristol: "Your representative owes you not his industry only but his judgment, and he betrays instead of serving you if he sacrifices it to your opinion." This high view of the Member's place in the Constitution, however inapplicable it may have been to the practice of some Members, undoubtedly contributed to that respect in which the Member of Parliament was held, just as it also expressed the focal position of the Commons. Here indeed, in membership of that House, was a task calling for the exercise of a man's widest faculties, and providing an opportunity for a not undramatic share in the control of national affairs. It was

truly a system of Parliamentary, if not of congressional, government.

But much of that has changed. Since 1885 Parliament has lost to the advantage in authority of the Cabinet on the one hand and the electorate on the other. The principle has gained acceptance that the people and not Parliament should decide the fate of a government, and the new method was already beginning to be adopted after 1867. Since that time no government, except in war time, has resigned by reason of Parliamentary action alone without an electoral decision. Governments weak through disunion, like those of Rosebery in 1895, Balfour in 1905, and MacDonald in 1931, have resigned, it is true, without demanding a popular verdict, but their fall cannot be attributed to Parliamentary action. It is evidence that their chief weakness lay in lack of popular support, that in each case their resignation should have been followed by a decade of uninterrupted rule by their opponents. The only other possible exception is the fall of Lloyd George. And it is significant that this should have been the direct result of a party meeting outside Parliament at which the Conservatives decided to withdraw their support, the Premier resigning without awaiting a Parliamentary decision. It is also symptomatic of this principle that the new Prime Minister, despite his large majority in the Commons, felt it necessary to appeal for a popular endorsement of the change. But this whole episode belongs rather to the peculiar situation created by coalition for war purposes than to more normal conditions. This practice contrasts strikingly with the conditions when Bagehot wrote his account of the English Constitution. It is worth recalling that the two government crises preceding this were one in which Palmerston, after winning an emphatic electoral victory in 1857, was nevertheless defeated in the Commons and resigned a year later, and another in which the Derby-Disraeli Government, having strengthened its position at the elections of 1859—although still in a minority—suffered the same fate immediately after the election.



The reduction in the length of life of Parliament is further indicative of the change. Its maximum life was reduced from seven to five years by the Parliament Act, 1911. Its average life has fallen from four and a half years between 1832 and 1900 to three and a half years between 1900 and 1935, or three years from 1918 to 1935.

This general change is due to several developments, in particular to the size of the electorate and to the building up of party organisation which has accompanied it. The private Member is now far less of an independent power in his area, having a loose connection with a political party. He stands for election with the party label officially attached by the party's local committee and by the endorsement of party headquarters. Having been elected, he is expected to vote as his party leaders direct. If he votes against them he will be accused of a breach of trust. If he carries dissent too far excommunication will follow; he will forfeit the party label and probably find himself faced by another candidate who bears it. Experience shews that it is almost impossible in such an event for him to retain the seat, unless, like Mr. MacDonald in 1931, he has the support of a party machine he has hitherto opposed. An election to-day is fought on a national stage. It is essentially a contest between two groups of leaders, each associated in the public mind with a particular general policy. Only a small proportion of the electors attend a political meeting; hardly any go to the meetings of both sides. Many, and probably the majority, never even see either of the candidates. To them the candidate is nothing without his party label. They may see his face and his message in election addresses, but they see the leaders in every daily newspaper, hear them on the radio, read them in the Press, and see them on television.

On the other hand, the practice adopted in some countries where representative government is of more recent creation, of regarding the whole nation as one or a few constituencies has hardly been advocated in England. Although in some ways this national constituency already exists, there is still

a fairly close relationship between the candidate and his local party. Efforts to dictate to the local committees may produce discord more often than agreement, and can only be tactfully indulged in. But headquarters exerts influence. Its support, whether of literature or money, is of great value to the constituency, and is not likely to be discarded without very good reason. It will have more difficulty, however, in imposing its will on a local party which has a wealthy candidate who can afford to be independent.

But there are other reasons for the eclipse of the Member of Parliament. In the social hierarchy of the nineteenth century he occupied a distinctive place. Being unpaid, he must be rich or he could afford neither to nurse his constituency nor to devote so much of his time to political work—and therefore he was worthy of respect. Still, like his predecessor of Lord Chesterfield's day, he made it a part of his business to "cut a figure" whether in his county or in the social circles of his town. Around his head there hovered the aura of a possible coronet. Many Members were the heirs to peerages; more than half the new peerages created between 1832 and 1928 went to men who had served in the lower House. Lesser titles were showered on Members. They were a means both of reward and of reconciling new wealth and parvenu brilliance with the social order. But no one to-day would contend that the Member of Parliament has that distinctive place. What he has lost in the prestige of social connection and leadership he has not yet gained by reason of intellectual eminence or political influence.

The great increase in the amount of legislation has made necessary a restriction of debate that has curtailed the privileges of the Member. The time-table for Bills, the "guillotine," the selection of amendments, or something of the kind, are undoubtedly a requirement of efficient legislative procedure, but they restrict the influence of the Member. More important is the failure of Parliament as at present organised to provide any real opportunity for measures introduced by private Members and approved by the House to reach the

statute book. The success of those Bills which have the exceptional fortune to pass through all their stages is evidence of what is lost through this failure of Parliamentary procedure. Here again the contrast between present conditions and those of the middle of last century is striking, for legislation was then regarded as the main function of Parliament. That was before the development of a strongly organised administrative machine. The legislative initiative has gone from the private Member and now belongs to the Departments of State under the direction of the Cabinet, which together have become in practice the first chamber in our lawmaking mechanism. This is partly because the technicality of modern legislation has meant that the ordinary Member often finds it impossible to understand its implication. "Legislative powers are," as a consequence, "freely delegated by Parliament without the Members of the two Houses fully realising what is being done."<sup>1</sup> Orders made in pursuance of these powers have, it is true, generally to be submitted to Parliamentary scrutiny, but "their quantity and complexity are such that it is no longer possible to rely for such scrutiny on the vigilance of private Members acting as individuals."<sup>2</sup> And these difficulties extend to finance, where the estimates and accounts "are of little value for purposes of control either by Departments, the Treasury, or Parliament."<sup>3</sup>

It may be that a certain restriction of the sources on which the House can draw for its membership has already done something to impair its quality. No one can doubt that it is in the best interests of society in general and of good government in particular that these sources should be as wide as possible. Members ought to be the most intelligent and best equipped people available. A heavy responsibility rests with the parties for seeing that they select the candidates most

<sup>1</sup> *Report of the Committee on Minister's Powers*, Cmd. 4060, 1952, p. 62.

<sup>2</sup> *Ibid.*, p. 63.

<sup>3</sup> *Report of the Machinery of Government Committee*, Cmd. 9350, 1918, p. 15.

fitted for Parliamentary duties and political leadership. How far their practice suggests that they are aware of this responsibility is discussed elsewhere. But there is little evidence of any general social policy directed by consciousness of this requirement of public interest. Available evidence points the other way. The field is unduly limited to that middle class section of society with private incomes which can best afford the risks and economic insecurity of a political career. They are the people who have for long filled the House of Commons, just as they have filled the chief posts in State administration, in the Church, the services, the professions, and even in business. That financial limitation is, of course, nothing new. On the contrary, the fact that Members are now paid ought to diminish the force of that restriction. But it is doubtful how far it has done so, for it does not solve the problem either of the outlay necessary for candidature or of the financial insecurity of a political career. Payment at £1,000 a year is not excessive, above all when this insecurity is taken into account. The prospects of promotion are not good, and even if attained government office is apt to prove transient. To those without an income there are so many disadvantages attendant upon election that they can hardly be blamed for reluctance to stand. Generally their remuneration and security in alternative careers is so much better that they may be faced with a conflict between public service and private advantage. The result is likely often enough to be that only the second best go into politics.

There are further factors of more recent development which tend to restrict membership to the propertied section of the community. With the increasing integration of industry and commerce, and the regimentation of staff which has followed upon it, large numbers of citizens are forbidden all political activity, even including in some cases canvassing and clerical assistance. In other cases, while there is no specific rule, the employee knows that were such activity to be discovered by his directors it would be unfavourably regarded, and might cause him the loss of his job. This res-

triction, however, does not apply to the directors themselves, whose political tendencies are likely to be in one direction only. Nor have the State or local or public authorities a better record. Generally positions must be resigned before a candidature can be accepted, although the slightly more liberal practice of imposing resignation only after election is sometimes adopted. When the large numbers of people employed in big private undertakings and in public service are realised it becomes immediately apparent how considerable is the restriction on supply thus imposed. This practice is even extending to the professions. Teachers have been dismissed by local authorities and the governing boards of schools for political candidature. It is perhaps partly due to the diminished respect for the Parliamentary profession, but it is also probably due to the more violent economic divisions in politics, that the practice is spreading to the universities. The custom of the older universities of allowing complete freedom to their staffs has been impaired in the newer. Men who think for themselves will inevitably have political views, and it is in the interest neither of political nor of vocational efficiency that those who give fertile and active expression to their views should be banned in favour of those who merely vegetate in a perpetual condition of frustrated resentment. Politicians are to be found on the governing bodies of many university and other professional institutions, and few will argue that there is anything but gain from their presence. Yet when we descend the scale we do not always find those liberties which add to both political and vocational fertility in many continental countries. The interchange between active and intellectual life, between the realms of theory and practice, between vocational specialism and general wisdom, is to the advantage of both. But there is not in England that freedom of the professor, to give one example, to obtain leave from his post in order to enter a government, with which France, Sweden, the Spanish Republic, Holland, or Denmark are familiar. In Sweden that liberty is even enjoyed by the policy-making civil servant

without bad results. But this is perhaps not to be recommended. The Masterman Report of 1949<sup>1</sup> recommended that non manual and non industrial civil servants should refrain from open political activity, in order to maintain the Civil Service tradition of impartiality in the public eye. However, restrictions on typing and clerical grades, for example, were widely thought to be going too far. Those engaged in direct contact with the minister in the making of policy ought probably to be excluded. But this principle can only suffer from its application to other classes of people than those for whom it was intended. But it is in industry that the difference between employer and employed is most marked. The banks, for instance, while there are always politicians among their directors, exact an undertaking in the name of political impartiality from their staff that they will take no part in Parliamentary or local politics. No employee may become a candidate. And this practice has been largely adopted by public authorities. To those who see such relations in terms of contract between equals this kind of restriction will naturally seem justifiable, although it does not follow even then that it is in the national interest. But in terms of economic realities, they are clearly unwarrantable interferences with the privileges and responsibilities of citizenship, which society in its own interest must limit and control. It should make leave in place of resignation compulsory, just as it does for other emergency duties in the national interest, and it should ensure freedom limited only according to such a general principle as that suggested by Professor Laski. If restriction is due partly to the increased time required for Parliamentary duties and the tendency to make ordinary membership a full time job, the remedy is to be sought either in improving economic security or in adding to the number of members.

A further factor in the decline of the Commons is the emergence inside its ranks of a new class division. One of the most striking features of the House in the nineteenth

<sup>1</sup> Cmd 7718 of 1949

century was the community of social background and the unity of outlook upon all but minor issues. The House represented the upper middle class exclusively. If there was a conflict of opinion between the landowning and industrial interests, there was no difference of policy with regard to the Constitution, the social fabric or the economic order. Land was a declining interest and industry was a growing one, but it was always the ambition of the industrialist to enter the ranks of the landowning class, and as the number of landowners in the Commons fell, the Conservative Party filled their places with the representatives of industry and finance. While landowners in the House dropped steadily from 489 in 1832 to 204 in 1901,<sup>1</sup> industrial interests had risen in the same period to over 500. The social homogeneity of the House is strikingly attested by the statistics of Members' parentage and education. In 1833 there were 246, and in 1897 there were 149 who were the sons of aristocrats. In the House of 1905 no less than 341 Members had been at Oxford, Cambridge, or a public school, and of these 121 had been at Eton. Nor was there a marked difference in the party affiliations of those who had the advantage of aristocratic parentage or of education at Oxford, Cambridge, or a public school. Of the former there were in 1909 53 Liberals and 52 Conservatives; of the latter, 187 Liberals and 92 Conservatives.<sup>2</sup> Members of the same class and broadly the same interests faced each other across the House. The House did not divide over the principles of such important measures as the Workmen's Compensation Act (1897), the Franchise Act (1884), the Trade Union Act (1871), the Conspiracy and Protection of Property Act (1875).<sup>3</sup> Upon fundamentals there was agreement, and the House of Commons presented a united front to the country. In such circumstances debate might centre around details, over which compromise was

<sup>1</sup> J. A. Thomas *An Enquiry into the Change in the Character of the House of Commons, 1832-1901*, unpublished thesis (London), p. 672.

<sup>2</sup> My article in *Economica*, 1929, p. 180.

<sup>3</sup> J. A. Thomas, *op. cit.*, p. 678.

possible, and upon the settlement of which discussion in the House might have a direct influence. The nineteenth century, it is true, saw bitter enough conflicts over protection and Irish home rule. But it is significant that opinion was so equally divided upon these questions that they were only raised at the cost of a split in parties. And however important they may have seemed to those who debated them, these were peripheral issues with which the great mass of Englishmen were not personally concerned. Free trade might injure the landed interest, but it would benefit industry and commerce and the land owner already had his stake in the newer forms of wealth. Besides, an increase in industrial wealth would foster the competition for his land, his right to which remained, of course, unchallenged. It was the age of prosperity and progress, and that is not likely to be a time at which the structure of society is under general discussion. So great were the profits, moreover, that it was easy for some of them to be allowed to overflow in the shape of social services to the poorer classes. In such circumstances as these it is hardly surprising that unity in political philosophy, and compromise in political action, should have been the chief characteristics of Parliament. Unity meant the strength of the Commons, for it implied a far-reaching agreement between government and opposition leaders, the possibilities of compromise gave to the ordinary member a significance in debate and in the lobbies.

To-day there is, on the other hand, a division in the House that roughly corresponds with the class division outside. Members of the two chief parties no longer spring from the same stratum. They differ in birth, education, economic activity, wealth, and in the use to which they put their leisure. And if this is so it is hardly surprising that at times they should seem to disagree fundamentally in their political philosophy, interpreting national and international ideals in different ways, or that conflict in the House should sometimes reveal deep divisions of emotional attitudes, not easily resolved by argument in debate. However we look at present-



day England, we find its class distinctions reflected in the party organisation of the Commons. Whether we regard the division as lying between capitalist and worker, between rich and poor, between the man of "society" and the man in the street, or between employer and employed, we still discover that with negligible exceptions the Conservative Party represents the one and the Labour Party the other. The social or agricultural advantages of one side of the House no longer find their counterpart in the industrial or commercial fortunes of the other, and the personal ambition to possess both has ceased to weave a net of common interest among the governing and opposition parties. The Conservative Party has absorbed both the Tory and the Whig under the threat of the new element of Labour, and the battle in the Commons is now between the propertied and the unpropertied. Capital has as its ambassadors the 96 members of the 1951 House of Commons who between them held 447 directorships of companies, including 112 chairmanships; and this figure excludes the ministers, who held many directorships before taking office. Of these 96 no less than 92 were Conservatives or other supporters of the Government; only 4 were members of the Labour Party, holding 11 directorships and 5 chairmanships. Nor are these figures exceptionally large: on the contrary there has been considerable diminution, for in the 1931 Parliament 188 members held 691 directorships, including 142 chairmanships;<sup>1</sup> in 1929 154 members held 581 directorships, 116 being chairmanships;<sup>2</sup> and in 1924 there were 206 M P s with 766 directorships, of which 150 were chairmanships. In the Parliament of 1922 it has been reckoned that of the 400 Members outside the Labour Party and the Government, 255 were company directors and landowners representing a total capital of nearly £2,000,000,000. Sixty six M P s were directors of companies belonging to the Federation of British Industries, and since the formation in

<sup>1</sup> *Labour Bulletin*, 1932, p. 336

<sup>2</sup> Of the 154, eleven were Labour, including Co op society directors; of the 206, 5 were Labour and 177 Conservatives—*Labour Bulletin*, 1929 p. 529

1918 of a Parliamentary Committee of the F.B.I., together with a liaison department for the purpose of keeping in direct touch with Government Departments, a constant influence has been exerted by the Federation on the Government.<sup>1</sup> The Federation itself said with pride that the "pressure which has been exerted by the Federation has not been without result." And we find that the *Financial Times*, which is a good indication of the financial interests so strongly represented in the Commons, was quite ready to warn a minister that "half a dozen men at the top of the five big banks could upset the whole fabric of government finance by refraining from renewing Treasury Bills."<sup>2</sup>

On the other side Labour was represented by 110 trade union sponsored M.P.s out of a party of 315 in the House of 1950.<sup>3</sup>

Again, wealth and the employing class had as their delegates in the 1931 Parliament 165 rentiers,<sup>4</sup> of whom 163 were National Government supporters, 150 being Conservatives. Business men, bankers and brewers numbered in addition 152, of whom 3 were Labour and 122 Conservative. Ownership and industry was responsible for 327 out of the National Government's supporters, and 5 to Labour; the Army and Navy for 42 and none to Labour, the law for 134 and 3 to Labour.<sup>5</sup> Social connections can be gauged from the fact that there were 31 heirs to peerages in the House of 1931, 30 being Conservatives, and that of the 173 titled M.P.s in 1928, 163 were supporters of Mr Baldwin's Government.<sup>6</sup> The facts, then, are clear—the conflict of classes has destroyed the homogeneity of the House of Commons.

But if there have been important changes in the House of Commons since Bagehot wrote, no description would be

<sup>1</sup> *Labour and Capital in Parliament*, 1923, pp. 13 et seq.

<sup>2</sup> *Labour and Capital in Parliament*, quoted from *Financial Times*, September 26, 1921.

<sup>3</sup> Allan Flanders, *Trade Unions*, page 149.

<sup>4</sup> Defined as "who live on inherited wealth and follow no occupation."

<sup>5</sup> Laski in *The New Statesman*, November 7, 1931.

<sup>6</sup> My article in *Economica*, 1929, p. 182.

complete without a mention of those of its characteristics which have remained the same. In personnel the Conservative Party and the Liberal remnant shew much the same features as in the past. The House is still the high road to the Cabinet, and in the M P, with all his diminished prestige, there yet lives the possible Prime Minister. The House still provides a forum for addressing the public, and therefore a means of achieving fame. Such, too, is the patronage of the political leader in office that the House naturally affords an avenue to distinction. Advancement to lawyers in the shape of judgeships, to politicians by means of the fifty or so ministerial posts, the appointment of ambassadors, governors, conference delegates, members of royal commissions or of the boards of control of various services, are all in the gift of political leaders who are naturally apt to know more of their colleagues' merits than those of the outside world. Nor is such promotion to be regretted, for the House of Commons still provides to him who lives to avail himself of it an excellent training in public service and in the understanding of social problems and political realities.

The British legislature is anything but legislative in its main function. It provides a forum for the Cabinet's announcements of policy. It receives the annual financial statement. It hears each departmental minister defend the activities with which he is chiefly concerned. It is provided with the Government's legislative projects. The reports of enquiry committees are supplied to it. Many ministerial orders have to be laid on its table for a certain time before they can become valid. When policy is in doubt, or a matter of urgency occurs, a minister may be invited to make a statement to the House. But it is not adequate to say that Parliament legislates. It provides the formal machinery of law-making, and it has the ultimate power over any legislative measure. Yet, when there is a majority government, the Cabinet, through party discipline and its control over the time table of the House, can determine what Bills shall be given the necessary facilities and even how much discussion

shall be allowed to them. If in the first instance the Bill is drafted by the Department in conjunction with the Parliamentary Counsel at the Treasury, it is with the minister's supervision and approval. It is he who secures to it the necessary allocation of Parliamentary time. And if amendments are to be incorporated in it, then only with his acceptance of them can they hope to reach the statute book. Parliament, it may be said, is often responsible for such amendments, because it indicates to the minister in the course of debate the measure of discontent evoked by his proposals. But if this is so then we must include legislation among the functions of many bodies other than the House of Commons. The Council for Civil Liberties, by the public speeches it organized and the prominent citizens it drew together, was certainly more effective than the Parliamentary Opposition in persuading Mr MacDonald's National Government to alter the Incitement to Disaffection Bill.<sup>1</sup> The fact that it is the business of the Opposition to oppose tends to discount its criticism in advance, and to render that of some independent body or prominent citizen of more immediate effect.

But it still remains true that Parliament is the stage on which the proposed legislation is revised. Without securing the services of Members, an interest is, to say the least, much less likely to find its criticism fruitful of results. The interests organise deputations to the minister because they know that if they can persuade him all will be well. They appreciate that the loss of votes in the country is the chief threat that accompanies them, whether it be through the alienation of a powerful or wealthy group's support, or through a general belief that the minister is acting harshly and unwisely. That there is an Opposition there ready to take advantage of such an alienation is fundamental too. But the group lobbies the private Member because he also has access to the Minister, who will not offend him if it can be avoided, and because

<sup>1</sup> W. Ivor Jennings "The Technique of Opposition," in *The Political Quarterly*, April 1935

he can make use of Parliament, if he cares to do so, for a public airing of their case. They are aware that there are limits beyond which the minister cannot go in his relations with his supporters. If he loses the sympathy of a follower then he will perhaps have lost a vote on some critical party occasion. He can afford to disregard a Member sometimes but to do so too often, and with too many, may endanger his position in the party or cause him to forfeit promotion. Thus, we cannot say simply that the minister, as influenced by the Cabinet, by his Party, by his Department, by the interests affected, by public and organized criticism, performs the effective act of legislation. If the Parliamentary sanction of an adverse vote has faded into the background, the ordinary Member cannot be disregarded beyond certain limits. He is an influential member of the Party in the country. He is a possible future colleague or successor in the Government. He can make himself unpleasant by asking awkward questions in the House. And there is always the possibility of his taking part in a revolt. He also plays for these reasons a real part in the function of legislation, but it is played less through Parliamentary discussion than through the interactions of personal authority and power.

There is room here for considerable improvement. It cannot be too much emphasised that the whole procedure of Parliament is adapted to the needs of the nineteenth century *laissez-faire* society, and that the coming of the social service State, with all the increase in public services and industrial regulation, has but little affected legislative procedure. The resulting congestion of public business is appalling. Apart entirely from the special programme of any government, for which, if it contemplates considerable changes, the lifetime of a Parliament is not long enough, there is often a list of measures of reform upon the need for which there is broad agreement in all parties that would itself be sufficient to keep Parliament busy for four or five years. Sir Ivor Jennings suggested a list of Bills for the consolidation and reform of Workmen's Compensation law, of the Factory

Acts, the Rents Restriction Act, of London Government, the judicial system and the law of evidence, the Poor Law, the Housing Acts the Statute of Frauds, and many other parts of the common law, and of income-tax law.<sup>1</sup> In addition there are many private Member's Bills which have already been approved in principle by the House, but which have been lost through lack of time. For more than half the time that Parliament has been sitting during the last hundred years there has been a committee of one kind or another investigating Parliamentary procedure. If the result has been the institution of such time saving devices as the guillotine, "the kangaroo," and the creation of a few large standing committees, it is nevertheless impossible to argue, in face of the facts and of the striking consensus of opinion in favour of reform, that there is in this respect an efficient fulfilment of Parliamentary functions. Nor is there much doubt that if it is at the committee stage that improvement can best come. Even Sir Winston Churchill, who argued before the Select Committee on Procedure on Public Business that the House was as much concerned to prevent as to pass legislation, was in favour of changes at this stage. There should be an increase in the number of committees, which should consist of about 25 instead of the present 40 or 50 members.<sup>2</sup> The Bill should be considered by them with the possibility of hearing expert witnesses. Debate on the report stage should be restricted and every Bill should be subjected to a time-table for its whole career. Each committee should have the function of generally considering the state of the law relating to the matter with which it is concerned, and where it saw the need for the introduction of a Bill it should be at liberty to propose it to the House. Everything which has passed through it, whether in this way or after second reading, should be assured of sufficient allocation of time to allow of its passage. If it be thought that such a committee would

<sup>1</sup> Sir Ivor Jennings, *Parliamentary Reform*, 1934 p. 32

<sup>2</sup> Some changes in this direction were made in 1945/7 when the potential number was increased and the maximum membership reduced from 70 to 50

take up too much of the minister's time; the remedy seems to lie in the more frequent delegation of his responsibility to the junior minister. If it is argued that such committees would interfere with the minister's responsibility, it must be answered first that a majority of the committee will be members of the minister's party in general agreement with him and likely to be of assistance to him in his dealings both with his Department's claims and with the Opposition, and secondly, that he has still in the last resort the Government majority to back him on third reading.

But the chief task of the House of Commons is to maintain a government. For this there must be a coherent majority in agreement with the general policy of the Cabinet, willing to entrust it with vital decisions, looking to it for leadership, and broadly having confidence in the persons who compose it. That administration is at the centre of the modern State is by now a commonplace. A large sphere of State activity is beyond the ordinary control of Parliament; within it administrative discretion must exist. Decision here is in the hands of the minister. "In the Local Government Act, 1929, there are at least seventy five extensive powers given to a department of state. Every week half a column of a journal dealing exclusively with matters of local government is needed merely to mention the departmental legislation of the week." Education, housing, roads, the Post Office, Police, the Army, Navy and Air Force—all give to the responsible minister a large area of individual discretion, in relation to which Parliamentary approval is general and not specific. The Cabinet, as indisputably the chief wheel in the machinery of government, must be in perpetual existence.

Apart from its removal by defeat in the country, a government may disappear through its own disintegration or through a loss of its majority in the House of Commons. Both cases are rare in modern British politics, but by no means unknown. The replacement of Asquith by Lloyd

<sup>1</sup> Sir Ivor Jennings, *Principles of Local Government Law*, p. 163

George in 1916, of the Labour by the National Government in 1931, and of the Chamberlain by the Churchill Government in 1940, were the consequence of disagreement inside the Cabinet or of loss of support in the House. The disappearance of Lloyd George in 1922 and the election which brought about the fall of MacDonald in 1924 were both the result of the defection of a party which removed from under its feet the Government's majority in the House.

This suggests two necessities for efficient Parliamentary government—that the Cabinet must have a common policy upon which its members are agreed, and that they must be given time to work it out. It is clear that without a broad common purpose a government is likely to waste its time on fruitless discussion, and eventually to break up. Time is spent on bargaining for place which could more profitably be used for getting to work. The politics of compromise which characterise a coalition mean stagnation or disagreement. It is true that a government which speaks with several voices may seem for a time to satisfy conflicting groups, but confidence in it is bound to evaporate, for if it acts it will forfeit support from one side, and if it does not act it will proclaim its impotence. And, assuming that a common policy exists, unless the Parliamentary majority has sufficient confidence in its leaders, and enough coherency to be able to await results, no valid judgment can be made either by Parliament or by the electorate as to the policy itself. But this is not to say that there can be no disagreement in an effective Cabinet. That would be absurd. It asserts merely that where the area of disagreement approaches in importance the area of agreement harmony is impossible, and without harmony neither effectiveness nor public respect is possible. Probably the best combination is one in which community of ends is combined with a strong element of constructive criticism as to means. Nor does such an argument suggest that the trust of the Parliamentary majority should be a blind one. On the contrary, the necessity for blind trustfulness in a British Parliamentary majority may be as dangerous to good



government as the excess of distrust sometimes characterising a French one. That is the consequence of the strength of the British Cabinet's position. It can make any matter, however trivial, a question of confidence, and attach to it as a consequence the threat of dissolution or resignation. Remedy must be sought by limiting the right of the minister to make amendments passed at the Committee stage into matters of confidence.

Another need is the provision of an alternative government. If a Cabinet or a majority may disintegrate at any time there must be a new body of men ready and able to take office. In its ability to meet this requirement lies one of the chief virtues of a Parliamentary system. The leaders of the Opposition have normally the opportunity in the House of hearing an immediate and first hand description and defence of the Government's proceedings. They must indicate in criticism what steps they would themselves take were they responsible. In doing so they are defining in reasonably concrete shape their own policy at the same time as they are appealing through the medium of the House for popular support at the next election. They are speaking in the presence of men who have to conduct the actual business of government, they are conscious that at some time they themselves may have a similar responsibility; they address an assembly which records and may remember what they say; and they are more likely therefore to keep to reality and to see the issue in terms of what is practical than when their public utterances are confined to addressing their own followers from a public platform. There are great advantages moreover, in retaining ex ministers near to their successors, for the value of their criticism is often in proportion to their experience.

All that has been said about the importance of maintaining a ministry implies that a Parliamentary system containing only two parties, one of which must at any time have a clear majority and therefore the opportunity of exercising power, is preferable to a Parliament split into three or more

groups combining in uncertain and ephemeral coalition. It has the great advantage of clarifying the issues. It fixes responsibility. Nothing is more vital to good government than the knowledge on the part of the ruler that he must answer for his conduct. Nothing is more pernicious than the possibility of evading blame through shifting responsibility.

All this has consequences in the sphere of electoral law. Having regard to the function of maintaining a government, we must endeavour so to organise our system of electing Parliament as to put the practical question to the voter "*What government do you wish to see?*" and to put it in such a way that the majority of citizens can see that their choice has direct implications in the conduct of affairs. If there is no prospect to any group of voters of seeing policy put before them at an election, and approved by them, carried into effect, if, instead, that policy must be altered in this way and that to suit the requirements of another group, then *they cannot judge by results the merits of either group of men or either policy*. And if political leaders know that there is no prospect of their party's receiving power they will be tempted to make vote-catching promises which they know they will never be called on to keep. The whole tendency of government when clear majorities are not possible is to obscure responsibility in both leader and led. The citizen does not believe in his own capacity or duty to decide, and he is sceptical of the honesty of politicians. Electoral law can discourage freak candidates. When, as in the Weimar Republic, it actually encourages them, it will do much to bring democracy into contempt.

The business of maintaining a government implies much more than merely keeping a group of ministers in office. Were that so, the Cabinet would be at least for the lifetime of each Parliament, a form of dictatorship. It involves, as we have seen, the necessity for providing an alternative government. But in addition it means that Parliament must perform a task of general supervision of government. It must criticise because wise government depends on healthy criti-

cism. If it is the function of the minister to tell the department what the public will not stand, so also is it Parliament's duty to warn both. It must suggest because wisdom is not confined within ministerial walls. It must elicit information because without knowledge of the facts neither public discussion nor criticism and suggestion can be the least fruitful. For precisely by fulfilling these tasks does Parliament both mould and represent public opinion.

In its performance of this general work of supervision the House of Commons is open to grave charges of inefficiency, the causes of which are fairly obvious. These are roughly lack of knowledge and the absence of organised responsibility. It is to these rather than to lack of time that the inadequacies must be ascribed, for there are important means of supervision available in the debates on supply, in question time, in the vote of censure, and on the motion to adjourn. It is, I think, indisputable that a House divided into a series of committees each having to specialise on the affairs of one department of government, would be better informed, more helpful to good government, and more effective. The responsibility of all is often the responsibility of none. But more than that, continuity of experience is possible when only a few are concerned, a large assembly like the whole House can be only fitfully interested. And the effects of such continuity are cumulative. Where a small group is constantly concerned with one branch of administration it is bound to develop a knowledge and a technique that will make discussion realistic, and will base approval or disapproval upon the fullest understanding. While such ability may be dangerous to the inefficient administrator, it will enhance the reputation of the efficient. In a committee having a party strength proportionate to that of the House there would not be any danger to ministerial responsibility, for the minister would retain his authority over his own followers, not only during those legislative steps taken on the floor of the House, but equally on the committee stage. It is probable, however, that the ministerial members would be able to exercise a

rather greater influence over their leaders simply because of their greater mastery of the subject matter under debate. There should be no more danger of obstruction from the Opposition members than at present, for the time table limiting discussion should be made applicable to all measures, and should apply in committee as well as in other stages. On the contrary, the fact that members were given greater information and more immediate contact with those responsible might well produce in them a spirit of co-operation. It is true that when Government and Opposition are diametrically opposed in philosophy and policy such co-operation is unlikely. The emergence of class divisions in the House has reduced this co-operation; their disappearance in the future may restore it. If the minority is to exercise an influence it will be through personal relations between its members and the Government supporters in the committee. Clearly the ministerial section is likely to be in close contact with the minister and his political and Civil Service subordinates, and it may prove to be of great value as an advisory and thinking body. A party when in opposition is normally accustomed to organise itself into policy-making committees. There is every reason why these should continue to work during the still more vital period when the party is putting its policy into operation, and the ministerial Members would inevitably form such a thinking and policy making nucleus. They would consider not only what Bills are actually before them, but what ought to be before them. They would be of use to the minister for strengthening his hands when dealing with the department. They would provide in their personnel suitable sources for committees of investigation, for international and other conferences, and for future ministers. Such committees, moreover, would be suitable for that supervision of ministerial regulations and Orders in Council which the Committee on Ministers' Powers regarded as necessary.

Finally, there are several ways by which time can be saved. The ridiculous waste involved in the practice of walking

through the lobbies to record votes, the counting of which often takes half an hour, could be remedied by quite simple mechanical devices. The multiplication of full-dress debates on financial legislation could be reduced by the elimination of the first stage taken in committee of the whole House. And there are opportunities of time-saving available also in a reduction of the pure formalities in which the House indulges.<sup>1</sup>

<sup>1</sup> For these and others see, Sir Ivor Jennings, *Parliamentary Reform*.

## Chapter III

### THE HOUSE OF LORDS

THE British Constitution grew, we are often told, and was not made. What is meant, one supposes, is that gradual change in the relative importance of the organs of government, that slow adaptation of institutions to purposes for which they were not intended, and that refusal to bring forms into correspondence with facts, which have marked the process of its development. These features of British constitutional evolution, themselves due to what one may call, according to taste, the respect for tradition and the principle of continuity or the obsequiousness to privileged interests, are the kindest explanation that can be given of the present existence of the House of Lords.

That body has been regarded as requiring radical change for more than a century. Since 1911 there has been on the statute book the declared intention to reform The whole of political theory for a hundred years has run directly counter to the notion of hereditary privilege. Yet the House of Lords is still with us, and the hereditary principle was never more strongly expressed in its composition, nor more clearly the sole basis of its claim to the great power it wields.

The story of the development of the Upper House from the King's Great Council, sitting by virtue of royal summons to attend and advise, into a House sitting by right of primogeniture is not unlike that of any other oligarchy. There is the usual insistence on a steadily growing privilege. This is exemplified in the denial of the King's right to withhold a writ of summons, in the prescription that, while the King can create life peers, he cannot summon them without making their titles inheritable. The House, which had for long possessed a majority of spiritual life-peers over temporal and hereditary peers, found it necessary in 1847 to restrict the number of ecclesiastical seats to 26 when there were already 400 hereditary peers. But the most interesting fact

in the history of the House is that it is not until the nineteenth century that the peers who hold their seats by virtue of birth seriously outnumber those who have been ennobled for their own services. It is significant that this is the period when the House begins to become unmanageable. It was sufficient in 1711 for the Tories to create twelve peers to pass the Treaty of Utrecht; in 1784 seventeen new peerages are enough to defeat Fox and his India Bill. In 1832 the position is more difficult, and by 1910 it had become necessary for the Prime Minister to contemplate several hundred creations, while to day the need might be for double the 1910 figure.

The House of Lords has about 850 members, the great majority being absent daily. Irish peers elected 28 of their number for life, but there are now over 20 vacancies unlikely to be filled. Scottish peers elect 16 for each Parliament. Nine law lords and 26 bishops sit ex officio. The remainder sit by virtue of peerage, the great majority having inherited their titles. The consequences of this method of composing the second chamber can best be gauged by considering first some figures of attendance and then the legislative record of the House.

During the first two sessions of the 1951 Parliament, the average number of peers taking part in a division was 78; only four divisions attracted more than 100 peers. 296 peers voted at least once, of whom 218 were Conservatives. The number of peers who voted 15 or more times—i.e. fairly regularly—was 65, of these 43 were Conservatives and 22 Labour.<sup>1</sup>

Property has always been the basis of the upper chamber. Queen Victoria put her finger on the two chief qualifications for elevation to the peerage when she gave her reasons for consenting to four recommendations from Disraeli as being that "they seem all unobjectionable people with large fortunes."<sup>2</sup> Property is still adequately represented in the House

<sup>1</sup> Figures taken from an article by Sydney D. Bailey in the *Spectator*, November 20, 1953, p. 561.

<sup>2</sup> *Letters*, Series 2, vol. II, p. 429.

of Lords, for we find that there were 246 landowners in the House in 1931, while directors of banks numbered 67, rail ways 64, engineering works 49, and insurance companies 112, to name only a few.<sup>1</sup> In 1922, 227 peers owned a known acreage of 7,362,000, or an average of 32,400 acres each. There were then 425 directorates held by 272 Lords representing 761 companies.<sup>2</sup> It is hardly surprising that according to the late Duke of Northumberland "the House is more representative of all the important interests in the country than the House of Commons"<sup>3</sup> But it was the late Marquess of Salisbury who made the most ambitious claims for the House of Lords. He said that "they will always accept the considered judgment of the nation when once that has really been ascertained. . . It requires considerable training and experience to know what the considered judgment of the people is. They (the Lords) have that tradition."<sup>4</sup>

This is one of those adaptations of the British Constitution. What justification is there in the activities of the House for Lord Salisbury's claim? Seldom indeed is any reference made in the course of debate on specific measures to this notion of "considered judgment." Bills are discussed on their merits as seen by the members of that House. They are accepted, amended or rejected simply on an evaluation of their merits, and in the process of that evaluation the main question is how they will affect the "important interests" represented. It is true that certain Bills disapproved by the House have nevertheless been accepted on the argument that there is a strong majority of the electorate behind them; but they have been accepted only out of the knowledge that an ensuing conflict with the Government and the Commons would be on unfavourable ground, and therefore dangerous to the most important of all the interests of the House, its own preservation.

<sup>1</sup> See figures compiled by H. J. Laski and J. Chrishton, published in *The New Statesman*, March 1933.

<sup>2</sup> *Labour and Capital in Parliament*, 1923.

<sup>3</sup> In the House of Lords, June 22, 1927.

<sup>4</sup> Quoted by A. L. Rowse, *The Question of the House of Lords*, p. 46.



John Stuart Mill once described the House of Lords as a very irritating kind of minor nuisance. There can be no doubt that he expressed a view prevalent among Liberals and even among Radicals at a time before the Upper House had developed its full technique of obstruction. It is true that the Lords had brought the country to the verge of revolution in 1832, and a power which could do this could hardly be regarded as of minor importance. But the party of reform had triumphed in the end, and this seemed to have established a precedent the significance of which could only be enhanced by accession of authority coming to the Commons through their greater representativeness. Besides, for ten years after the reform, the Lords were led by the Duke of Wellington along a path of compromise. That elder statesman, who belonged to the old order, recognised the ultimate superiority of the Commons which had been established in the eighteenth century. What was not seen at this time was that the new difference in origin of the two Houses would inevitably make the second chamber increasingly hostile to the first. That the House of Lords was a nuisance no progressive of the next generation was likely to deny, but to assert that its influence was of a minor character without significance must to-day be regarded as absurd. In order to realise how absurd we have only to think what would have been the shape of history had the House been abolished in 1832 or even in 1911. This can be done by considering the legislation destroyed by the direct action of the House, but that is a serious underestimate, for it takes no account of the legislation killed before it was born.

Anglo-Irish relations have been embittered by the activities of the House of Lords. Had the British Constitution been purely representative Irish home rule would have come thirty years sooner than it did. Although in 1893 an election had only just been fought largely upon the issue of home rule, and Gladstone's Bill had passed the Commons by a majority of 34, the Lords did not hesitate to reject this "con-

sidered judgment" of the people by the largest vote ever recorded by them. Of no aspect of its policy is Joseph Chamberlain's assertion more true that "the chronicles of the House of Lords are one long record of concessions delayed until they have lost their grace, of rights denied until extorted from their fears"<sup>1</sup> What might have been given to the moderate and constitutionalist Irish home rule movement in 1893, what might even in 1913 have formed the basis of Anglo-Irish friendship, had eventually to be granted to a revolutionary committee. The intervening years of bloodshed are the responsibility of the House of Lords as an institution and the peerage as a class. It is interesting to reflect on the different treatment accorded to the project which gave home rule to South Africa. In this case statesmanship was not obstructed by a vested interest like the Irish landowners powerfully entrenched in the upper chamber. But that the Lords should have been blind to the needs of society when their own interests were concerned is only another example of a principle frequently to be observed in political history.

The Lords have naturally been particularly interested in legislation affecting the land, but their oppression of the Irish peasantry shews to a special degree the influence of their landowning interest. While an Act for facilitating eviction was passed in 1850, five Bills providing for proper compensation to tenants for improvements were rejected between 1842 and 1854, and this happened again in 1870 and 1880. Vital amendments were inserted in the Irish Land Bill of 1881, which had subsequently to be removed. The Irish Land Bill of 1909 was amended out of recognition. This concern of the House of Lords with the land has shewn itself constantly in general legislation. Agrarian disputes were excluded from the operation of the Trades Disputes Act. The powers under the Evicted Tenants Bill and its period of operation were restricted in 1907. The Small Land-

<sup>1</sup> Quoted by Emily Allyn, *Lords versus Commons*, p. 118, from *J. Chamberlain's Speeches* (ed. H. W. Lucy), p. 90.

holders (Scotland) Bill had to be dropped. The Land Utilisation Bill of the second Labour Government was amended to remove the power it attempted to confer on the Minister of Agriculture to acquire land for reconditioning and experimental work. Finally, on every occasion on which a measure for land valuation has been proposed in order to make it possible for the community to take a portion of the unearned increment in value created by itself, the Lords have opposed it. Possibly Sir William Harcourt would have introduced such a provision into his Budget in 1895 had it not been for fear of the Lords. The Upper House rejected a Land Valuation Bill in 1907 and 1908. It was largely because the provisions of that Bill reappeared in the Budget of 1909 that the extreme and unprecedented step was taken of rejecting it. General valuation of land throughout the country, necessary before the social increment can be taxed, must take some years to complete. It had not been finished before the War gave an excuse for its abandonment. Nor on the second occasion of its enactment had it been possible *to complete the task before the Labour Government fell in 1931* and the valuation was suspended. But without the obstruction of the Lords this valuable source of revenue would have been available before the War, and possibly even at the end of the nineteenth century. The amount of the social increment which has thus gone into the pockets of private landowners during these years of rapid urban development and road building must reach an astronomical figure. Members of the second chamber are not, like those of the first, paid for their services, but the toll which they have been able to levy—even since payment of Members was introduced in 1912—makes their cost to the community incomparably greater than that of the representative body.

Signs are not wanting that the newer forms of property, which the peerage now additionally represents are finding the Upper House an invaluable buttress of their interests. The Coal Mines Act introduced by the second Labour Gov-

ernment, and itself a compromise measure with the Liberals, was subjected to months of delay, in which coal-owning peers like Lord Linthgow insisted upon vital amendments.<sup>1</sup> The Dyestuffs Act, of immense pecuniary advantage to Imperial Chemical Industries Ltd, was continued against the Government's wish at the instance of Lord Melchett, the Chairman of that concern. But these are only two recent examples of policy that the Lords have consistently followed. They inserted, for instance, in to the Employers' Liability Bill of 1892 the principle of contracting out, and so largely nullified the effect of that measure. This attitude dates back to the earliest period of labour legislation. The Mines Act of 1842 was amended by the peers to admit boys of ten instead of thirteen, as well as to remove the restriction on hours of work for children over ten, and on the employment of women. Their eradication of the provision for inspection of mines made what remained of the Act effectually invalid.

But the influence of the Lords has been exerted in more subtle ways. Thought, as we know, is one of the greatest dangers to a privileged order. The peers have steadily opposed every measure for spreading knowledge, the raw material of thought. They began with their effort to prevent the repeal of the paper duties, when the ending of that tax on knowledge had already passed the Commons under Gladstone's leadership. It is instructive to notice, too, that the Upper House insisted on vital amendments to the Education Bill of 1906 because, although the Liberal Government had only just been returned to power with a huge majority, the Lords believed they would not be ready to dissolve on the measure. Scotland was taken out of the Education (Provision of Meals) Bill. And again, with the second Labour Government, we find the Lord's wrecking an Education Bill designed to raise the school leaving age to fifteen, and bringing about thereby the resignation of the minister concerned.

<sup>1</sup> See A. L. Rowse, *op cit*, pp 32-36, for a good brief account of this.

Finally, the House of Lords has always taken a keen interest in the method by which its partner the House of Commons is elected. The fight over the Reform Bill in 1831 and 1832 is the most obvious instance, but the concern of the peers with this question has not diminished over the intervening century. They prevented Jews from entering Parliament from 1828 to 1866, just as they prevented Dissenters from entering the universities. They systematically opposed the principle of the secret ballot, rejecting the Ballot Bills of 1870 and 1871. Of the latter Morley reports: "It was novel, they said; it was dangerous, it had not been considered by the country or Parliament (after eighteen days of committee and forty years of public discussion), it was incoherent and contradictory, and to enact vote by ballot was inevitably to overthrow the monarchy."<sup>1</sup> But they were forced to allow such a Bill to pass in 1872 after they had had to face a campaign attacking the hereditary principle, and after a threat from the Government that "there would remain nothing but the last alternative to consider" if the Lords rejected the Bill. The Conservatives for tactical reasons passed the Franchise Bill through Commons, but used the Lords to extract the price of an agreed Redistribution Bill, and returned to power in 1886. The principle of plural voting, favourable as it is to property, has always been upheld by the Lords, even when Bills to restrict a citizen to the use of one or even two votes have passed the Commons by large majorities. The Plural Voting Bill of 1906 was rejected by 143 votes to 43 within a few months of the Liberal Government's electoral triumph. Another effort in 1909 to restrict the number of votes exercised by one property-owner was defeated by the peers, although it had to be accepted in 1918 for the whole country. In the second Labour Government's Electoral Reform Bill, again a compromise measure, the Lords restored the principle of plural voting and removed the restrictions on the use of motor-cars at elections.

<sup>1</sup> Morley. *Life of Gladstone*, li, p 359

No one who examines the legislative record of the House of Lords, however, predisposed he may be towards it, can see in it anything but a consistent fight for the interests of the wealthy. The Lords have enjoyed the power until 1911 to impose their veto on any measure for which the Government of the day was not prepared to go to the trouble and expense of a dissolution, and to risk the rest of its programme. That finance has been outside its control and has done much to preserve the existence of the Upper House. When such an important sphere of activity, in addition to foreign affairs, and general administration, is left to its unrestricted direction, the Government must be tempted to refrain from challenging the Lords. Liberty in this sphere is a powerful argument for following the path of least resistance. Both the Chancellor of the Exchequer and the Foreign Secretary are likely to wish to follow that course. Nor is it improbable that a Prime Minister will lean towards the policy of compromise when he may be able thereby to retain his immense influence and patronage. Then there will always be in any Cabinet a large number of ministers who are not immediately affected by the action of the Lords in any particular case. So it is that the Lords, with an able choice of the battleground, have been able so often to defeat the purposes of a government having a majority of the Commons and country behind them. Their attack has always been directed against a progressive government. Since 1832 no Tory Government has ever had anything to fear from the Lords. They have defeated the Commons more often by a skilful process of amendment carried out with the aim of destroying the effectiveness of the measure, while appearing as impartial as possible. Nor, as we have seen, have they hesitated to attack the projects of a party which has just received a mandate at the polls for effecting those very projects. Since they can choose the occasion and the method in their struggle with a progressive government, they have an initial advantage of great value. It was only when, with the Budget of 1909, they were driven into foolish action by the deliberate incitement

of a courageous enemy, that they first had their powers curtailed.

But how far the Parliament Act did seriously curtail the authority of the Lords is open to question. It removed their power over financial legislation, defined by the Speaker of the Commons. It restricted their veto on other legislation to two years, now reduced to one by the Parliament Act 1948, provided the Commons pass it in two sessions. But the most astonishing feature of the Act of 1911, showing the strength of the Whig tradition, was its conservatism. After two general elections in less than a year forced on the Government by the action of the Lords and the King, and fought and won on the issue of the people *versus* the peers, the Upper House emerged with its powers, defined by statute it is true, but hardly distinguishable from what they had been believed to be long before 1909.<sup>1</sup> The history of the Lords' activities since 1911 is not reassuring. Has the statutory definition of the delaying power done something to weaken the threat contained in a dissolution of Parliament or in the creation of peers? Perhaps the discovery then made that the King could and would really refuse to create a large number of peers, that there was an exception to the King's constitutional duty to act on his ministers' advice, did something to increase the self-confidence of the Lords. It was argued by some people on both sides in 1911 that the Act would strengthen the Lords. We have since seen the readiness to obstruct a government of the left increased rather than diminished. We have witnessed the utilisation of the delaying power to provide a period in which extra-constitutional movements can be organised to destroy, if necessary by violence, the legislation which lies meanwhile a dead letter on the records of the Commons. This was true of the revolutionary activities of the Opposition in Ulster in 1913. It is clear that this period of delay is an open invitation to the preparation for revolution.

<sup>1</sup> See below, Chapter IV

## II

There is no case for the House of Lords save as a method of ensuring that one party and one section of the community shall govern, as Mr. Balfour once said it should, whether in office or in opposition. But there are two arguments for the existence of a second chamber of another kind.

It is said that there ought to be another body than the House of Commons to revise its measures, and to give time for reconsideration. To this there are three points to be made in reply. The Commons itself is now in effect the second chamber for legislation, the first being the Cabinet together with the Administration which prepares Bills in what is normally very much like their final form, and which enters into the necessary consultations with interests concerned. Secondly, time is of the essence of government, and it is more often in practice undue delay than too great speed that characterises Parliamentary action. Such an argument of course—to return to the House of Lords—cannot be put forward in favour of that body, for it delays measures only when one party is in power. Thirdly, for the function of pure revision, a committee of drafting experts and of lawyers is far more effective than a large assembly.

The second argument for an upper chamber is that it provides an opportunity for those who are not able or willing to enter the Commons through the strife of the electoral process to be used in the business of government. Clearly there are such people. Clearly also the elder statesman may have something to contribute to national counsels even after his retirement. The principle of co-optation to committees in local government, or of the election of aldermen, is an expression of this need. There seems no reason why it should not be applied with advantage in national government, provided that those who enter in this way are in a subordinate and advisory position. Some of them might even be allowed to be included in a government, as are members of the House of Lords to-day.



These principles are not in conflict with current opinion, for in the spring of 1948 a conference of party leaders reached agreement<sup>1</sup> on the principles which should govern the composition of a new Second Chamber. These included (1) that it should be a modification of the present House, rather than a completely new construction, (2) that no party should have a permanent majority, (3) that "the present right to attend and vote based solely on heredity should not by itself constitute a qualification for admission to a reformed Second Chamber," (4) that Life Peers should be appointed, (5) that women should be eligible, (6) that members should be paid. However, the conference failed to agree on the powers to be held by this Chamber, and the Labour Government proceeded with its own Parliament Bill, which reduced the delaying power of the existing House from two years to one.

<sup>1</sup> See Cmd 7380 of 1948

## Chapter IV

### THE QUEEN

#### I

THERE was never a period in modern times when the monarchy was more generally accepted without discussion, or more popularly acclaimed, than during the last fifty years. This is, at first sight, a startling fact. The royal family belongs by relationship and tradition to an order that has vanished. Yet its popularity has grown at the very time when that order was most in decay. The family circle of European rulers with which Queen Victoria was familiar has largely disappeared. But the Queen's position is now more solidly grounded in popular acceptance than ever. When, for instance, within a few years of the disappearance of its relatives, the Romanoffs, Hohenzollerns, Bourbons and Hapsburgs, the British royal family was considered at a conference of the most radical party in the State, only one in ten was ready to vote for its removal, and even that minority voted on grounds of principle rather than from any feeling of urgency.

Yet it is worth examining earlier conditions to set the present ones against their historical background. It was not regarded as in any way unusual when a century ago the Duke of Wellington cancelled the state drive of William IV to the City for fear of riots against the King. The Duke himself had no illusions about the value of William and his brothers, for he said of them: "They are the damndest millstones about the necks of any Government that can be imagined. They have insulted—personally insulted—two-thirds of the gentlemen of England." Shelley crystallised a view which, if not universal, spread down from the upper classes throughout the community, when he called these princes "the dregs of their dull race." Yet two of them occupied the throne of England, one of Hanover, a fourth was

the father of Victoria, and another the grandfather of Queen Mary. It was left to a respected ornament of early Victorian literature to describe the Queen's uncles in the most biting language. "That royal old mummy," "the lax maudlin slip-slop," "nothing but a coat and wig and a mask smiling below it—nothing but a great simulacrum" are among the descriptions of George IV to be found in Thackeray's *The Four Georges* which circulated widely in the 'fifties. It is hardly strange that the Queen should have discountenanced the honouring of Thackeray's memory by burial in the Abbey.

If the public had made up its mind about Queen Victoria's predecessors, there was no certainty during the first forty years of her reign that it would give a different verdict in her case. During her conflict with Peel over the selection of the ladies of her bedchamber she was publicly hissed in the highest circles. If she led a blameless life it was also a dull one. If her offspring were legitimate they were numerous and expensive. If she was frugal and did not present the country with colossal debts to redeem, she nevertheless enjoyed a huge income, was the owner of a large private fortune, and was believed to be saving at a great pace. While the Prince Consort lived the Court was dull and rigid enough, but after his death the Queen had become a recluse and her money was even harder to justify.

The unpopularity of the Court during the royal feud with Lord Palmerston was extreme. That identification of the Sovereign with the ministers which destroyed Louis Philippe in this period shewed some signs of developing in England. The Prince's German manners were disliked. The Queen's subjection to him was feared. He was known to hold strong views about the Sovereign's powers, and in fact the Queen was being encouraged in such an attitude by her secretary, Baron Stockmar. It was carefully made clear during the time of friction with Palmerston that the Queen and the Prince had their own foreign policy and were often in disagreement with the Foreign Secretary; and when Palmerston was dismissed there was an outcry against Court intrigue and Ger-

man influences, which was not made less serious by the Prime Minister's publication in justification of his action of a minute from the Queen shewing her personal dissatisfaction with Palmerston.

The Queen was personally criticised for her retirement from public life. After the death of the Prince Consort in 1861 the Court was in a state of suspended animation for many years. The Queen rarely came to London and never appeared in public. Osborne, Balmoral, and Windsor may have been aware of her, but in London and to the vast majority of her subjects she was an unknown figure. She was constantly criticised in the Press. It was thought, to use the words of Bagehot, that "there are arguments for not having a Court, and there are arguments for having a splendid Court; but there are no arguments for having a mean Court."<sup>1</sup> The Queen felt, as she wrote to Sir Theodore Martin, that she was "a cruelly misunderstood woman." She complained of the "heartless, cruel way in which they (the *Times* and the *Daily News*) had attacked the Queen. . . . The unjust attacks this year almost drove her to despair."<sup>2</sup> There was nothing apparent in the Queen's behaviour to suggest that she was not a worthy daughter of the House of Brunswick. If her private life was not for a moment to be compared with that of George IV, there were moments when it seemed that she might have or develop something like what the *Times* described as "the meddlesome obstructiveness" of her grandfather, George III. It was whispered that she was often insane. As for the Prince of Wales, what was known of his life and pleasures suggested that he was developing much as had earlier princes of his line, and that another George IV might succeed Victoria. And if, said Bradlaugh, "it should in this country have at last to come to a question of a Republic or another George IV, then I can see only one reply, and I can hear scores of thousands of my fellow-countrymen training themselves to make it," adding that Parliament "has

<sup>1</sup> *English Constitution*, 1932 edition p. 52

<sup>2</sup> T. Martin, *Queen Victoria as I knew Her*, p. 41

the undoubted right to withhold the Crown from Albert Edward, Prince of Wales." Moreover, there was keen disapproval of the foreign alliances of the Queen's family. As she subsequently warned the Prince of Wales, when she thought his anxiety to uphold the dignity of the family was taking too exclusive a form, "You may not be aware, as I am, with what *dislike* the marriages of Princesses of the Royal Family with small German Princes (German beggars, as they most insultingly were called) were looked on . . . in these days, when you ask Parliament to give money to all the Princesses to be *spent* abroad . . . we could not maintain this exclusive principle."<sup>1</sup>

But the unpopularity of the monarchy is shewn in other ways than disapproval of the habits of the Queen or her circle. Overthrow of the sovereign had taken place in Spain in 1868 and in France in 1870. And there followed a republican movement in England. At a meeting in Birmingham to greet the new French system Joseph Chamberlain said of "the idea of the possible establishment of a Republic in our own country. I am quite certain that sooner or later it will come." On September 19, 1870, a republican demonstration was held in Trafalgar Square. It set on foot a republican movement which organised itself into groups in the provinces, and resulted in 1871 in the formation of the Republican Club in London at a meeting attended by 15,000 people. To some the Republic of England was to be modelled on the Paris Commune; to other, on the United States of America, but if all were not agreed on the part to be played by property in the new order, there was complete unanimity in the wish to end rank and privilege and the monarchy. Charles Bradlaugh, first President of the Club, speaking at its inauguration, said that "the heir-apparent to the throne has neither the intelligence, nor the virtue, nor the sobriety, nor the high sense of honour which might entitle him to take a front rank in this great nation." "The monarch does not take, and for more than a century and a

<sup>1</sup> *Letters*, Second Series, i, p. 633

half has not taken, any active and initiatory part in any movement for the promotion of our national or social welfare." Bradlaugh was the author of a pamphlet, *The Impeachment of the House of Brunswick*, which sold widely and the subject matter of which, he announced in the second edition, had been heard by more than 80,000 persons without opposition worth mention.

The movement gained ground, and a sensation was caused when Sir Charles Dilke, M.P. for Chelsea, announced that he had joined its ranks. At a crowded meeting in Newcastle on November 6th he ended up an attack on the excessive cost of the Crown by asserting: "If you can shew me a fair chance that a republic here will be free from the political corruption that hangs about the monarchy, I say, for my part—and I believe that the middle class in general will say—let it come."<sup>1</sup> Such was the progress made that Chamberlain wrote to Dilke, "The Republic must come and at the rate at which we are now moving it will come in our generation." Auberon Herbert, Member for Nottingham, supported Dilke. Among other republican sympathisers were Bright, Odger the trade unionist, Mundella, M.P. for Sheffield, and John Morley. Yet a few years later the movement had collapsed, and Queen Victoria was able to impose a public recantation upon Dilke before accepting him as a Cabinet minister.

The change in the position of the monarchy began after the collapse of republicanism, but it did not reach its zenith until the reign of George V. The republican movement itself was partly responsible for the change. It demonstrated the need for more general and popular support, and conscious popularisation followed. The reception given to the Queen when she appeared in public encouraged her to adopt the new method. But even so that identification of royalty with social service and charity with which England is now familiar is the product less of her reign or King Edward's than of their successor's.

<sup>1</sup> *The Cost of the Crown*, p. 13

It was in 1876, with the state opening of Parliament followed by her proclamation as Empress of India, that the Queen effectively came on to the public stage. But it was no longer the same Victoria upon whom her people gazed. The long years of retirement had done their work; they had made her a mystery. And if the mystery was now coming to life with magnificent solemnity the old atmosphere of legend never left her. Those sad years had done more. They had won the sympathy of the nation for the grief-stricken widow. They had shewn her as a creature of simple and retiring habits, as one whom the ordinary man and woman could understand, who was neither able nor likely to be a danger to good government. They had revealed in her all those family virtues the perfection of which was the sole philosophy of a prosperous and all-pervading middle-class. Church and State were enthroned in her person in every respectable and right-thinking home. She satisfied the perennial human desire for an image to worship, and with the enfranchisement of the uneducated that satisfaction had become increasingly necessary to the stability of the political system. Victoria had other qualities to endear her to her people. "Vitality, conscientiousness, pride and simplicity were hers to the latest hour."<sup>1</sup> Moreover, "she was of a great age—an almost indispensable qualification for popularity in England."<sup>2</sup>

But there were other factors at work. The Queen had now reigned for forty years. A new generation was replacing the old that knew nothing of George III and his sons, and could not remember a time when the Queen was not on the throne. She had become a part of the accepted and inevitable order of things. Victoria was no longer a woman with faults, the daughter of the German Georges. She was the symbol of national history and national glory, of a golden age of wealth at home and empire abroad, the first Empress of India. Small wonder that in an imperialist age she should

<sup>1</sup> To quote Lytton Strachey's inimitable description of her, *Queen Victoria*, p. 266.

<sup>2</sup> *Ibid.*, p. 263.

have borne the Crown into the atmosphere of myth and glamour.

But behind this symbol was a woman increasingly out of touch with the realities of her day and singularly unfitted to understand the movements of liberalism and social reform. We must agree with Lytton Strachey when he says of her that "the vast changes which, out of the England of 1837, had produced the England of 1897, seemed scarcely to have touched the Queen. The immense industrial development of the period meant little indeed to Victoria. The amazing scientific movement . . . left Victoria perfectly cold."<sup>1</sup> To her a Conservative Government was in the natural order of things, a Liberal one was merely a temporary and highly annoying lapse into abnormality. "Mr Campbell Bannerman," wrote the Queen, "forgets the danger of increasing the power of the House of Commons and having no force to resist the subversive measures of the so-called Liberals but better called destructives."<sup>2</sup> And in 1892 we find her writing in agitation from Balmoral after some slight insubordination in the 1st Life Guards. "Something must be done to prevent the Non commissioned Officers from getting demoralised by Socialists."<sup>3</sup> If the Queen had been Whig at the beginning of her reign there was no doubt that she was High Tory at the end.

Edward VII wished, we are told, to check the tendency of the Court to become frankly partisan.<sup>4</sup> But his personal views were hardly less definite. Like his mother he was opposed to Woman's Suffrage and House of Lords Reform. If he was annoyed by Balfour's "attacks" on the prerogative,<sup>5</sup> he also frequently disagreed with his Liberal ministers. When Campbell Bannerman wrote in *The Nation* advocating the raising of the disarmament question at the coming conference at The Hague, he said, "I am disgusted at his

<sup>1</sup> *Queen Victoria*, p. 258

<sup>2</sup> Spender, *Life of Campbell Bannerman*, 1923 vol. 1, p. 171

<sup>3</sup> *Letters*, Third Series, II, 170

<sup>4</sup> Spender, *Life of Campbell Bannerman*, vol. II, p. 227

<sup>5</sup> *Ibid.*, vol. II, p. 43



article in *The Nation* and his backing up the Woman's Franchise Bill. Both are unnecessary and the matter very undigested."<sup>1</sup> King Edward had a high sense of his rights and was anxious to preserve the royal dignities and prerogatives intact, but this betrayed him occasionally into mistakes. His belief in the right of the Sovereign to have and pursue a personal foreign policy led him sometimes into conflict with his ministers, when they had to restrain his activities. When Campbell-Bannerman resigned and the King summoned Asquith to Biarritz there was open criticism of his failure to return. The Crown lost rather than gained during his reign.

Under George V the Crown not only recovered lost ground but soared to new heights of apparent unassailability. It is interesting to trace the causes of that development. On the proper understanding of them by the public and the occupant of the throne will depend the monarchy's continued freedom from challenge. Most important of all is undoubtedly the general belief that the King has no political policy of his own, that he stands aside from party, and that he has no power to enforce his view. What matters in this connection is the belief which is widespread, rather than its validity, which, as we shall see, is more open to question than is generally thought. It seems clear that under George V the belief was more general than it was under either of his predecessors. Edward VII and Victoria were constantly meeting foreign royalty and were correctly credited with pronounced views on foreign policy; but it is difficult to say that George V's influence was less important.<sup>2</sup> Although in home policy it is clear that even when Victoria announced "the Queen will never consent," she would subsequently do so. Although Edward VII appears to have acted with equal

<sup>1</sup> See *Life of Edward III*, vol. II, p. 467.

<sup>2</sup> Mr J. A. Spender whose researches into the lives of twentieth-century British statesmen give a peculiar authority, asserts that "it would be a profound mistake to conclude that King George has played no part or only a small part in the tremendous events of his reign" — *International Affairs*, 1935, p. 455.

constitutionality, such was their high sense of royal authority that they were never able, and perhaps never wished, to make clear to the public the completeness of their irresponsibility and divorce from politics. Victoria's letters reveal that she acted as a second opposition to Gladstone, and that he had sometimes to spend as much time refuting her arguments as those of the official Opposition. Edward VII never hesitated to rebuke ministers for the declaration of views which he did not share, objecting, for instance, to Mr. Lloyd George's assertion that the House of Lords should be abolished<sup>1</sup> or his guarded advocacy of women's suffrage.<sup>2</sup> George V<sup>3</sup> was equally earnest and insistent with his ministers, but the constitutional difficulties which faced him were eased by his personal liking for Asquith and MacDonald. His influence was directed towards domestic appeasement, moderation in Ireland, compromise in party differences, to prevent recrimination after the General Strike in 1926. He also acted but with the agreement of his ministers, as conciliator in the Home Rule conflict of 1914. But, when army officers and Conservative party politicians cast doubt upon the King's support of his government or advocated his repudiation of it, we do not yet know of even any private intimation that the King intended to fulfil his constitutional duties although he did object to the use of his name to encourage officers to obey their orders.

On the contrary, the King's sympathies lay with the Opposition, at least in its demand that the Home Rule Bill should not receive the royal assent until a general election had reaffirmed the Government's mandate. Despite the passage of the Bill through all its stages under the Parliament Act, he felt a duty to the Opposition which was threatening his government with civil war. The fact that it was threatening the Government indeed largely accounted for his feelings. That anyone in King George's position would have

<sup>1</sup> Spender, *Life of Campbell Bannerman*, vol II, p. 228.

<sup>2</sup> Lee, *Life of Edward VII*, vol II, p. 653.

<sup>3</sup> Harold Nicolson, *King George V*.

felt perturbed by the situation in which he found himself and the country hardly needs to be said. The important thing is that in that situation, when doubt about whether he would fulfil his constitutional duty might strengthen the movement of violence, he did not cause any public assertion to be made of what he conceived his constitutional duty to be. He did not do so because he did not know. He was trying to reconcile the constitution with what on his judgment he felt it most desirable to do. At the time he was actually saying to his friends "that for him the only satisfactory solution was a general election"<sup>1</sup> He was deterred from insisting on it by two things. First, his ministers were firm in their determination—although efforts were made at Court, partially successful in the case of Morley and Lord Crewe, to divide them—and therefore the passage of the Bill could only be prevented by dismissing them. And at the ensuing election the King's action would, as he was told, have been attacked on every Liberal platform. Secondly, in spite of the extreme views of some Tory leaders "some of the best and wisest of the Opposition told him that his interference would destroy the Unionist Party; that an enforced election would throw the whole of the Liberal Party into opposition to the 'King's Party,' and that even if the Unionists won this election, that the day would inevitably come when they—i.e. the 'King's Party'—would be beaten, and the King with them." Even then however, the crisis was not yet resolved when the King was saved from any necessity to decide by the declaration of war.

The Sovereign has the right, Bagehot tells us, to encourage and warn his ministers, and he puts into the mouth of the Sovereign the words: "I do not oppose, it is my duty not to oppose, but observe that I warn."<sup>2</sup> At what stage however, does warning become opposition? Certainly Victoria would never have said, "it is my duty not to

<sup>1</sup> Lord Esher's "Journals and Letters," Vol. III, p. 155. He was urging this too on the Prime Minister, cf. Nicolson, p. 227.

<sup>2</sup> *The English Constitution*, p. 75.

oppose"; nor would Edward VII. It is difficult to trace in Victoria's letters, especially during what were called her "George III moods," any such attitude of non intervention. After all, she threatened Disraeli with abdication. And when in 1894, Lord Rosebery proposed to limit the power of the House of Lords we find that "the Queen seriously contemplates demanding a dissolution."<sup>1</sup> She consults the Leader of the Opposition behind the back of her ministers, and he is not loath to take advantage of her consultation or to advise a dissolution "<sup>2</sup> He even thinks at one stage that the result of an election would be "favourable,"<sup>3</sup> and therefore presumably that it should be indulged in. Clearly, this type of attitude quite belies Bagehot's view either of what actually happens or of what should happen. But it seems, nevertheless, that there is established to-day a public conception of the Queen's impartiality and removal from politics more widespread and generally accepted than in the time of either Victoria or Edward VII.

But the general belief in the impartiality of the Sovereign is only one of the foundations of her strength. Without it the whole position of the monarchy would be called into question, and we have no reason to suppose that the challenge would be less fervent or effective than in the past and in other countries. The widespread approval of the monarchy, however, needs far more explanation than this. It is true that there are never wanting people to admire established authority simply because it is established, and to abase themselves before tawdry eminence merely for its wealth and pomp. It may also be said that with the growth in the importance of a commercial minded middle class this obsequiousness has spread. But, numerically at least, the working-class is now the dominant political factor, and no institution can survive which has earned its united disfavour. One of the most striking features of universal suffrage is the

<sup>1</sup> *Letters*, Third Series vol II, p 441

<sup>2</sup> *Ibid*, vol II, p 349

<sup>3</sup> *Ibid*, vol II, p 441

completeness of the acceptance of royalty even in the proletariat, a completeness which has been strengthened since the advent of women to political authority. That acceptance is mainly the work of the Press, whether consciously pursued or as a by product incidental to the technique of newspaper production. The Press, as we have seen, was not always—even in the twentieth century—as devoted to royalty as it appears to be to-day. The explanation of the change does not lie in any sudden conversion of the journalist into a worshipper at the shrine of royalty, but in the vulgarisation which is a necessary part of the competition for large circulation. One of the first principles of editorial policy is to avoid wounding the susceptibilities of even a quite small body of readers. Clearly any story or cartoon which shewed a member of the royal family in an unfavourable light would hurt the feelings of many readers. It would cast doubts on their preconceived certainties, and it is the function of the Press to minister to preconceptions, not to shatter them. On the other hand, the doings of royalty provide one of the most valued types of the human story for which the editor is always looking. The result is that solely those facts which are to the credit of royalty are reported, and that there is gradually built up around it a myth of perfection, a stereotype which, however vague it may seem, is a political reality of importance in the country's system of government. Thus the "divinity that hedges kings" may to-day take on the curious form of some cynical journalist in Fleet Street. However much he himself may know of royal frailties there is an inexorable law which dictates that he shall not reveal them. He must supply the great middle class with an image in whose consecrated mediocrity it can see the reflection of its own ideals—and rest content with such a kindly touchstone of perfection. "We must not let in daylight upon magic," wrote Bagehot. Mystery has been replaced by stage-lighting.

There is also better management. The Queen has her own Press department which lets the Press know of the dignified

and official doings of royalty. The method of paying the Civil List is also better arranged. Being charged on the Consolidated Fund it is not discussed by Parliament except at the beginning of a reign. While in Victoria's time an additional grant on the marriage or coming of age of a prince was made separately and so gave rise to discussion in the House of Commons, now such change is automatic, being provided for at the beginning of the reign, and so removed as far as possible from public notice. These votes for princes or princesses once provided frequent occasion for public consideration of the cost of the monarchy, and Victoria suffered as a result. To-day probably there are many Members of Parliament who would be unable to recall the terms of the Civil List. Then again, the Queen lives in London, the wealthiest and most prosperous centre of population. If some of the worst slums are within a mile of the Palace, it is also next door to Mayfair, there is nothing of the grim atmosphere of toil and poverty which pervades the industrial centres of the North and Midlands or of South Wales. Nor is there such striking contrast as would raise questions in men's minds in other areas frequented by the Queen—the Scottish castle at Balmoral, the large country estate at Sandringham, the huge castle and park at Windsor.

The Queen, we are told, is the link between the British Commonwealth of Nations, the symbol of its unity, and this is a further cause of the strength of her position. Without her, it is said, that strange edifice would fall to pieces. Since the Statute of Westminster, moreover, it has become a principle of the Commonwealth that no change in the royal style or position shall occur without the agreement of all the Dominions. The relations of the Government in Canada or South Africa with the Queen are in theory the same as those of the Home Government, save that there acts for her in a Dominion a Governor appointed by her. Since the shifting of the responsibility for that appointment by the Statute of Westminster from the Home to the Dominion Government, the Governor has ceased to combine the royal function with

that of an ambassador of the Home Government. The removal of the Crown from political responsibility has thus been better secured. The Queen's approval of an appointment of Governor must, of course, be obtained, and her advice upon the selection must be heard, but in case of disagreement approval could now only be withheld on the Queen's personal responsibility, and there can be no doubt that a Dominion government would regard such action as unconstitutional. India is now a Republic with a President and no Governor, the Queen, however, is acknowledged as Head of the Commonwealth. Thus the view of her as a symbol of imperial unity is due partly to the antiquity of the institutions she represents, and partly to its association with the common tradition and history of the British people. Some have concluded from this that an inanimate symbol would serve. But the Queen does more: she is the head of society, she sends a relative or personal representative to visit the Commonwealth and to take the lead in important celebrations, or she goes herself. Once again distance makes mystery more mysterious and adds to magic.

The royal household is of remarkable complexity. There are the college of chaplains, the medical household, the Master of the Horse, the Lord Steward, the Lord Treasurer, the Comptroller, the Gold Sticks, and the Aides-de-camp. But the two most important officers are the Lord Chamberlain and the Queen's Private Secretary, neither of whom is now a political appointment. Under the former are the nine lords in waiting, the three grooms-in-waiting, and the gentlemen at arms. "The Lord Chamberlain's chief function is the regulation of Drawing Rooms and Levees. He is also responsible, curiously enough, for the licensing of dramatic entertainments. His salary is £2,000 a year."<sup>1</sup> The second officer, the Private Secretary, with a department under his control, has the task of assisting the Queen in those official functions of her office which still have political significance, such as the summons of a politician to form a government,

<sup>1</sup> M. MacDonagh, *The English King*, 1929, p. 276

or the Queen's dealings with Ministers. In a political crisis the nature of his advice and of his interpretation of the Queen's constitutional position may be of the utmost importance. In the past there have been constitutional crises, such as the conflict between Victoria and Peel, over the selection of the Sovereign's personal attendants. The principle established and upheld has been the right of the Government of the day to ensure that the Sovereign is surrounded by officials at Court who are in sympathy with the Government's policy. Yet this new political institution, the Private Secretary, is not appointed by the Government. The avoidance of difficulties in the future must depend on the extent to which the Queen and the Secretary are able to maintain the appearance of impartiality. The appointment is in conflict with constitutional precedent, and it should be a political one.

Side by side with the other changes there has proceeded a certain improvement in the manners of the Court. But it would be too much to call this a democratisation of the monarchy such as has occurred in some continental countries. If there is no longer quite that rigidity of Court etiquette which made Victoria feel it impossible to invite Lord Derby to be seated in her presence even after a severe illness, there are still the elaborate paraphernalia of Court attendance, the odd trappings of Court dress, the obligation upon high officers and officials to attend the levee in costly uniform, the kissing of hands upon appointment as minister, ambassador, or governor. The Court is still, unfortunately, a centre from which snobbery radiates. There are the complicated regulations governing presentation at Court, where a knight's lady and a marchioness has each her nicely graded number of presentations. Along with this there goes a certain trading of these rights, and before the season begins the personal columns of upper-class newspapers always have their crop of offers by ladies of title to "chaperon" aspirant youth. The antics through which people will go in order to win entry to the Court or the ranks of the titled belong



rather to the vulgarities of the eighteenth century than to a time when England is thought to be virtually a republic. We hear that an anonymous gentleman has given a large sum of money to charity in honour of some royal occasion; shortly afterwards his name is revealed, and we find him to be perhaps an unknown company promoter; a year elapses and his name figures in the honours list as a knight or baronet; in his locality his has become a family of social significance, for the British aristocracy is always open to talent.

When we see the picture of the English Court with its appanage of title, ceremony, and tradition, we cannot evade the contrast with those other constitutional monarchies which have survived into modern times. If the Dutch Queen or the Danish King has a less important empire over which to reign, each seems able to maintain position and popularity without anything like the elaborateness, the expensiveness, or the social hierarchy of the English Court. There can be no doubt that the social manners of their countries are immensely improved thereby. There is less countenancing of snobbery, vulgarity, and false values such as hereditary titles and Court display inevitably give. Neither the Dutch Queen nor the King of Belgium, Denmark, or Norway is surrounded by an aristocracy. The granting of hereditary honours has ceased. The absence of a privileged second chamber can hardly be said to have undermined the royal position; and this is an effective disproof of Edward VII's belief that the abolition of the House of Lords would render the continuance of the monarchy impossible in England. We are face to face here with the contrast between popular monarchy and that mixture of aristocratic and plutocratic monarchy which we have in Britain. But there are signs, as we have seen, in the recent popularisation of the British monarchy that the disappearance of the peerage and plutocracy, if it were insisted upon, would not only be accepted perforce by the Crown, but would maintain the stability of the monarchy in a more equalitarian society.

A comparison of the cost of the Crown in England and elsewhere reveals a similar disparity. Elizabeth II has an annuity of £475,000 (including £95,000 "for future contingencies"), together with the revenues of the Duchy of Lancaster which amount to about £90,000 yearly. In addition there are the revenues of the Duchy of Cornwall, of which about £10,000 yearly is to be paid to the Duke of Cornwall until he is 18, and £80,000 applied to the relief of the Civil List. The Duke of Edinburgh receives £40,000 per annum and Princess Margaret £6,000, to be raised to £15,000 on her marriage, and considerable sums are paid to the Queen Mother, the Duke of Gloucester and the Princess Royal. Thus the Royal Family has an income far in excess of that of continental monarchies. for example, the Kings of Denmark and Norway have civil lists of about £100,000 each, and the King of Sweden one of £181,000.<sup>1</sup> If these are small countries, it must be remembered that Great Britain is the only Great Power in Europe in which monarchy survives; and if comparison is to be made with the Great Powers which are republics the contrast is naturally more striking, for the presidential budget of France is about £30,000, and the American President receives about £50,000 salary and expenses.

Nor do these sums take into account the Queen's private fortune. On this no official information is available, as royal wills are not filed at Somerset House. It must be recalled that the Civil List is historically the return given by the State for the surrender of Crown property to the national exchequer. But since that surrender there has probably been a very considerable accumulation. A subject bequeathed a large fortune to Queen Victoria. She bought an estate at Osborne and built Osborne House, which Edward VII later presented to the nation. The Prince Consort bought Balmoral and it has remained the private property of the royal family. When Edward VII came of age there was a considerable accumulated fund put at his disposal. On the other

<sup>1</sup> *Scandinavian Year Book for 1953*, p. 113

hand, there is now the necessity for providing for the Duke of Windsor, which may be done out of the royal fortune. There has been criticism from time to time of the secrecy which surrounds this fortune.<sup>1</sup> In 1873 an amendment submitting the wills of the royal family to the ordinary law was moved to the Crown Private Estates Bill, but lost.

So far we have examined the changes in the popular attitude to the Sovereign, the solidification of her position, the foundations on which it is based, and the significance in general of the monarchy. What we have seen is in fact the emergence of that institution whose function in Bagehot's view was to lend dignity to government and to win it the loyalty of the ignorant and the politically immature. It is at an institution standing somewhat apart from the ordinary business of government, at a Sovereign who "reigns but does not govern," that we have been looking. But that, as has already been suggested, is not the whole picture. We need to consider more carefully the direct association of the Queen with the business of government, realising that Bagehot's rendering was too simple, and implied too complete a change from the past to be wholly realistic. Before doing so, however, we must take into account the conditions surrounding the abdication of Edward VIII and the further conclusions they suggest. Opposition to the King's choice of a wife came in the first place from the highest, most expensive, circles in Church and society. Without that opposition he could never have been removed. They must therefore be regarded as in the main responsible for the outcome. The curious bitterness with which they treated the King is further evidence of their responsibility. That bitterness was not to be found among the general public or at the political left. The important fact is that, in conjunction with the Press they controlled, they were able to convert an opinion which

<sup>1</sup> Bradlaugh used to relate that George I burnt his mother's will, and that George II, having been handed George I's will in the Council by the Archbishop of Canterbury, walked out with it and it was never seen again.

at the outset was clearly favourable to the King into a hostile one. The ostensible reason for their attitude was the unsuitability of the King's choice of a Queen. This was on the ground that she had divorced two husbands. We do not know for certain yet what other reasons lay behind the opposition. It was widely believed that this provided an occasion desired on other grounds, especially because of difficulties between the King and his ministers due to a circle of irresponsible friends. The attitude at the right was helped by fear at the left that any other outcome might impair the essential constitutional principle that the King does not act against the advice of his ministers, and so strengthen the King's hands against a future progressive government. The cardinal feature of the situation was, however, the lead given by the Prime Minister, the Church, and the Press. Mr. Baldwin told the King that Mrs. Simpson would be unacceptable as Queen. We do not need to go into the merits of the King's case, that the marriage was legal, that Mrs. Simpson was in law the innocent party, that the view of marriage expressed by the country to-day in statutory form is different from that of the early Victorian period, or into the possible hypocrisy of refusing to a Queen what might have been granted to a mistress, for Mr. Baldwin proved to have been right. We do not know yet, however, what part, if any, Mr. Baldwin and his friends played in ensuring through their influence on the Press that the public attitude should follow the upper circle's verdict and should prove unfavourable, and so should prove him right. But we cannot avoid the question whether, if those who decided against the King in the first place had decided otherwise, they could not so have arranged the publicity as to make the marriage a romantic occasion, adding to the popularity of an apparently more democratic monarchy. In either event we are entitled to say that the happenings of December 1936 proved the British King to be not unlike what Señor Ortega y Gasset called his Spanish counterpart, the tool and agent of a governing section of the community, removable by it when

failing to serve its purposes.<sup>1</sup> The dethronement must have done some damage, of course, to the institution itself. However, sedulous efforts to repair the damage—notably the impeccable constitutional behaviour and widespread popularity of George VI during the war and while the Labour Party was in office—seem to have been successful; and the new reign began with monarchical institutions as firmly entrenched as ever.

## II

It is significant that Sir Sidney Lee should have found a difficulty in drawing the line between constitutional and personal monarchy. As official biographer of Edward VII he had the fullest opportunity of examining the documents. Yet he found that the dividing line "is more shadowy than is sometimes thought."<sup>2</sup> Every student of politics is familiar with the contrast made between the Sovereign's formal powers which are immense and her real powers which are said to be unimportant. It has generally been accepted that the Sovereign can do nothing more than encourage and warn her ministers. She may make suggestions, deliver criticisms, tender advice, but the decision rests with the political leaders in power and theirs is the responsibility. She may choose to call for one politician rather than another to form a government, but on acceptance the responsibility devolves upon the new Prime Minister and the majority of the House of Commons which supports him. The powers of the Crown have been transferred from the Monarchy to the Cabinet, but the Queen's approval is still necessary before they can be exercised. That approval may take the form of a signature, of mere presence in the Council Chamber, or of handing over the seals of office. Without that approval the legal basis of government would largely vanish, and therefore the principle that it must be given is fundamental.

<sup>1</sup> On the abdication crisis see Kingsley Martin, *The Magic of Monarchy*, 1937, and the Duke of Windsor, *A King's Story*, 1951.

<sup>2</sup> *Life of King Edward VII*, vol. II, p. 35.

Yet the Queen's obligation to give that approval has never been laid down by law. There is, in the Act of Settlement, a statute regulating the succession to the Crown; in the Royal Marriages Act a law limiting the freedom of members of the royal family; in the Civil List Act, 1952, a legal fixing of the income of the Queen and members of her family from State funds; but there is nowhere any general statutory definition of the Queen's duties in her relations with the Cabinet. These are governed by conventions, that is to say—if we adopt for this purpose Dicey's definition—by rules which are not enforceable by the courts. But, if they are not written and no court can interpret them, it cannot be easy to know at any given moment either what they are or to what extent they are likely to be observed or altered. The attempt to simplify the position is the cause of serious misunderstandings of the British political system. Bagehot himself was to some extent guilty of this mistake. His often quoted assertion that the Sovereign has three rights only, "the right to be consulted, the right to encourage, and the right to warn," is by no means a complete picture, but it has far too often been taken as such. Victoria was accustomed to speak of her "constitutional right" to dismiss a member of the Government. She passed over the probably superior claims of Harcourt, selecting Rosebery to the vacant 'premiership. She refused to accept certain men as ministers. She took an active part in the formation of governments.<sup>1</sup> She seriously considered dissolving Parliament against the will of her ministers. She wore down the opposition of her advisers to promotions of which she was in favour. She threatened Disraeli with abdication. Was this the exercise of the mere right to encourage and warn? Yet Victoria was the sovereign of whom Bagehot was writing. Edward VII reproved Lloyd George for advocating policies with which he disagreed, and he regarded Balfour's methods as "attacks" on the prerogative.<sup>2</sup> King George forced upon Asquith a

<sup>1</sup> See, for instance, Smellie, *A Hundred Years of English Government*, 1937, p. 219.

<sup>2</sup> See *Life of King Edward VII*, vol. II, p. 45.

dissolution which even that able constitutional lawyer had not anticipated. He seriously considered in 1914 using the veto on the Home Rule Bill. In 1931 he passed over the claims of the largest party in the Commons when he invited MacDonald to form a new administration.

✓ This last case is capable of throwing valuable light on the realities of the King's position, if we make an hypothesis. It is not yet clear what justification there may have appeared to be through misrepresentation of MacDonald's position and power, but let us suppose that King George had secretly been equally opposed with the majority of the Labour Cabinet to cuts in unemployment pay, preferring some other such policy as reflation or a larger tax on his own and other rich men's incomes. Say that after accepting MacDonald's resignation he had offered the premiership to Henderson, who proceeded to announce that the minority, including the ex Premier and ex Chancellor of the Exchequer, had proved incompetent and run away from their duty of reflation or "making the broadest backs bear the burden," or whatever else it might be. Nor is it impossible to make a final assumption that, impressed by the need for co-operation in time of financial difficulty, by the determination of the new Government, and perhaps also by the solemnity of the King's words uttered in private, the Liberals had supported the Government from outside or in, and that an appeal to the electorate had resulted in an endorsement of national unity and a condemnation of carpers and critics in time of danger. Would not the King have been said to have acted with complete constitutional rectitude and impartiality?

Does it not follow that with a good judgment of electoral possibilities, the King may play the decisive part in such a ministerial crisis? The emergence in such a case of a majority of voters behind the Government of the King's choice is held to vindicate the constitutionality of that choice. That is a conclusion which it seems difficult to escape.

✓ But there are limits to the Sovereign's freedom in choosing a Prime Minister. He could not have selected anyone but

Mr. Baldwin in 1925. He must avoid the appearance of bias which would have been involved in the formation of an anti-Labour coalition in 1929, for although such a combination would have commanded a majority of the Commons and an electoral majority of something like five million votes, it might have appeared as the retention of office by an electorally discredited administration, and have been attacked by Labour as a clear refusal to it of the fruits of success at the polls. But even in that event the King's position would have been guarded. By the acceptance of office in 1929 Mr. Baldwin or Mr. Lloyd George as the leader of a coalition government would have assumed responsibility for the King's selection of them, and there can be little doubt that the larger portion of the public would have endorsed the King's action, provided the Government had been successful for a time in retaining the confidence of Parliament. We see, therefore, that the old view of the royal participation in the selection of a government as a purely automatic choice of the leader of the biggest party is an over-simplified one. That view has been generally held. We find it expressed in a memorandum of the Prince Consort of 1851, noting agreement between Lord Lansdowne and himself that "the Queen should be entirely guided in her choice of the person to construct a government by the consideration which party would now appear to be the strongest in the House of Commons."<sup>1</sup> But that view does not take into account the possibility of more than one leader being available from a given party, or the chances of a coalition being formed under the persuasion of the King or the politician to whom he offers the task of forming a Government. Nor does it allow for the intangible but none the less real influence of the *fait accompli* upon the electorate. It is easy, for instance, to imagine circumstances in which a new Cabinet without an established position in the Commons could appeal successfully to the electorate, although an alternative could have been found without a general election. To some extent 1931

<sup>1</sup> Queen Victoria's *Letters*, vol. II, p. 373 (first series)



was an illustration of this. The mere fact of being the Government with a clean slate and an untried policy, and the prestige derived from selection by the King in a time of emergency and from agreement to coalesce, would rally a large part of the floating vote. And success would justify the King's action; indeed it would probably increase the prestige of the monarchy. But, on the other hand, it must not be imagined that the failure of such a government to win a majority at the elections would necessarily reflect any discredit on the King. Had the MacDonald coalition lost its majority at the election there would still have been few to dispute either the King's right to call upon MacDonald or his wisdom in doing so. Nor would a similar failure of Henderson have reacted to the detriment of the King. There would have been few to question the King's authority, on accepting MacDonald's resignation, to consult with prominent politicians in the Labour as well as other parties. That would have revealed to him the realities of the Parliamentary situation. A strict pursuit of the principle laid down by the Prince Consort, or the often-accepted view of the automatic right of the strongest party in the Commons, would clearly have provided as good a justification for the choice of Henderson as of MacDonald. For we must remember that it rests with the King both to discover and to reveal the possibilities inherent in such a Parliamentary situation. Without his action in 1931, without what his fairly active intervention, the willingness of Baldwin and Samuel to coalesce in support of MacDonald might never have appeared; certainly it would not have been in evidence while they sat together in opposition.

This brings us nearer to an appreciation of the Queen's position. Conventions are observed "because constitutional difficulties would follow if they were not."<sup>1</sup> If such difficulties will not follow in any given circumstances there is no certainty that they will be observed. Whether they will follow must on some occasions depend upon the ministers'

<sup>1</sup> W. Ivor Jennings, *The Law and the Constitution*, p. 108.

decision to remove or ensure them. It is a convention that the Queen gives her approval to ministerial acts. That convention is likely to be obeyed because, if she did not, there would normally ensue a conflict in which her own name could not be kept out of discussion, and in that event the whole institution of monarchy would become a matter of dispute. Its neutrality, as we have seen, is the chief source of its strength. The principle of ministerial responsibility necessarily involves the Cabinet's right to expect the Queen's automatic endorsement of any item of policy judged essential. It is responsible and she is not. The Queen would be acting against all constitutional precedent, for example, if she refused to sign a treaty of alliance with Russia or Japan recommended to her by the Government. She has the right to know the course of negotiations, and to give her advice, but by convention she cannot refuse to sign. The same is true of a declaration of war. The Queen's participation is necessary; without it the declaration cannot be made. The Queen, we have been told, is bound to approve. But what if she does not?

There may be a strong opposition to the Government's policy. Possibly it is thought that the Government would be unsuccessful if it appealed to the country.<sup>1</sup> The Opposition will claim that the Government has no mandate. The Queen would be urged to use the prerogative. If she consents the Government has two alternatives—to accept the Queen's decision or to fight it. If it does the former it may remain in office; if the latter, it will have all the popularity and prestige of the monarchy against it, and it is not fanciful to imagine a weak ministry afraid to face the approbrium and to risk defeat. But if it decided to fight it would still have to determine whether to resign and accuse the Queen of bias and unconstitutionality in forcing a dissolution or to take what might be the easier step of accepting the Queen's right and merely asking for mandate on the issue at

<sup>1</sup> This seems to have been the case in the early stages of the Budget crisis of 1909, see, for instance, *Esher, Memoirs*, vol. II, p. 406.

stake. If the result of the election were favourable to the Opposition it would give in either case much colour to the claim that the Queen had acted constitutionally. One can imagine that a comparison would be drawn with William IV's failure to win popular approval for his somewhat similar decision to impose dissolution on Lord Melbourne, and that the comparison would enhance the Queen's prestige. On the other hand, were the Government to win the election, having accepted the constitutionality of the Queen's action, her position would hardly be weakened. If they had resigned, challenged her, and then been successful at the polls, the monarchy's prestige might be diminished, but its powers would only have sunk to the position in which they were deemed to have been before the emergence of such a crisis. Thus it is only in one out of the four eventualities that the monarchy is likely to suffer. Since at the outset the Queen decides whether it be advisable to force the issue, the chances are that she would only do so when convinced that the conditions were favourable. The degree of determination in the Cabinet to maintain its rights, and the clarity of its interpretation of the Constitution, may be therefore the deciding factor.

There is much in the critical years from 1910 to 1914 that is material to this question. The Queen is bound by convention to create peers on the Prime Minister's recommendation. The responsibility for such honours is not hers but the Prime Minister's. But the wholesale creation of peers in order to override the House of Lords was something which King Edward refused to contemplate.<sup>1</sup> It is well to consider the circumstances of that refusal. The annual Finance Bill had been rejected by Lords. Of this incursion of the Lords into finance, as the authors of the *Life of Asquith* write, "There was no precedent for it for at least 250 years; it had been the universal assumption in all parties that the House of Commons, and that House alone, controlled finance."<sup>2</sup>

<sup>1</sup> Spender and Asquith, *Life of Lord Oxford and Asquith*, vol. 1.  
 p. 160  
<sup>2</sup> *Ibid*

The King made it clear that he was far from taking that view of the situation. He went further. After Parliament had been dissolved he informed Asquith that he would not be ready to create peers to carry a Reform Bill, even if the Government were successful in the election, until a second general election had returned them to power. There can be no doubt that the King was interpreting the constitution to the advantage of the House of Lords, in fact that he was accepting the Conservative Party's view in full. "The King regards the policy of the Government," Asquith was told,<sup>1</sup> "as tantamount to the destruction of the House of Lords." It is interesting to note that the policy was the very moderate one which later became the Parliament Act. It was largely because King Edward regarded the maintenance of a privileged hereditary nobility as necessary to the monarchy,<sup>2</sup> because he thought that "the House of Lords, like the Crown itself, should be above the attacks of party politicians,"<sup>3</sup> that he felt called upon to defend the peers, and constantly to reprove ministers for their speeches on the subject.<sup>4</sup> It was more to the flooding of the hereditary peerage than to the overruling of the Lords that the King was opposed, for "his objection to the creation of Peers would be 'considerably diminished' if Life Peers could be created."<sup>5</sup> The King seems to have gone far in his defence of the Lords, yet his action has been accepted as constitutionally correct. The intervention of the House of Lords was a revolution in constitutional practice. Had the King agreed to an immediate threat to create peers he would have been acting in defence of that constitutional practice. There was some justification in precedent, whether the creation of peers in 1712 or the threat to do so in 1832, for such a course of action, which

<sup>1</sup> Spender and Asquith, *Life of Lord Oxford and Asquith*, vol. 1, p. 261.

<sup>2</sup> J. A. Spender, *Life of Sir Henry Campbell Bannerman*, vol. II, p. 317, also, Lee, *Life of King Edward VII*, vol. II, p. 455.

<sup>3</sup> Lee, *op cit*, vol. II, p. 455.

<sup>4</sup> *Ibid.*, vol. II, pp. 313 and 456.

<sup>5</sup> Spender and Asquith, *Life of Asquith*, vol. 1, p. 262.

veto being abolished." The two most distinguished constitutional lawyers, Sir William Anson and Professor Dicey, held that the King should force a dissolution.<sup>1</sup> That the King took careful note of their views and seriously considered complying with them has been pointed out above. But if there was something very like a threat in Mr. Bonar Law's words there was also one in the pronouncement of the Prime Minister. Mr. Asquith said, "We have now a well established tradition of two hundred years that in the last resort the occupant of the Throne accepts and acts upon the advice of his Ministers . . . If the King were to break that rule, he would, whether he wished it or not, be dragged into the arena of party politics, and at a dissolution, following such a dismissal of Ministers as has just been referred to, it is no exaggeration to say that the Crown would become the football of contending factions"<sup>2</sup> The publication of Lord Esher's memoirs has also revealed that there was need for this warning to be issued so far as the King himself was concerned, and we are therefore the less surprised to find that Mr. Lloyd George remarked that the King "has been told quite plainly that a refusal to sign the Bill would be very perilous"<sup>3</sup> That the Cabinet's decisiveness was a powerful factor in determining the outcome has now become apparent. We must remember, too, that had the King dissolved, the situation would have been very different from 1910. Then, if his view had been challenged, there would have been a conflict between the Government on the one hand and the King and one House of Parliament on the other. In 1914 it would have been a straight fight between Cabinet and King, for by the Parliament Act the House of Lords was now deemed to have passed the Bill. And the Cabinet was probably the strongest and most talented of the century. The King acted in what has since come to be regarded as the proper constitutional manner. But it is not

<sup>1</sup> Colvin, *Life of Lord Carson*, p. 201

<sup>2</sup> *Op. cit.*, p. 215

<sup>3</sup> *Ibid.* (quoted from Gwynn, *Life of Redmond*, p. 230)

wholly without importance as representing the view of a certain section of the country—which might in crisis become widespread—that subsequently, speaking of the revival of the royal veto at the Conservative Conference of 1932, Lord Rankellour said that “things might come to such a pass that it would be the only and necessary thing to do to save the country from ruin.”

We are entitled to draw an important conclusion from the abdication crisis. It was then argued on all sides that the King's constitutional duty was clear and undoubted—to follow the advice of his ministers.<sup>1</sup> But if that be true of his choice of a wife it follows *a fortiori* of the creation of peers to overrule the House of Lords. The precedent of 1936 is important. Do those who then held that view accept its corollary? The answer lies hidden in the next second chamber crisis.

So far we have been considering the relations of the Queen with her ministers when a major issue is at stake. There is a large portion of the business of government in which the Queen's formal participation is not necessary, such as the control of the social services and expenditure, the passage of Bills through both Houses of Parliament, the pursuit of a policy that may commit the country to war, the undertaking of important judicial proceedings. But there are also numerous activities of less grave significance which require endorsement by the Queen in order to have legal validity. This is true of the vast body of supplementary legislation by Orders in Council which may vary in importance from the fixing of a date for the operation of an Act to a proclamation of a state of emergency. It is also true of nearly all high appointments, including ambassadors, high civil servants, governors of dominions or colonies, and bishops, as well as of the granting of titles. For all these the Queen's personal fiat must be given. And we know that traditionally

<sup>1</sup> See W. I. Jennings, “The Abdication of King Edward VIII,” *Politics*, March 1937.

the Sovereign takes a keen interest in many of these promotions.

When considering the personal power of the Queen it is important above all to remember, not only, as does so much orthodox description, that to describe her formal powers alone would give a grossly distorted picture, but that a mere account of action in the past, a mere reliance on precedent, may also be misleading. Her actions are governed, more than those of any other institution, by convention. Convention, more even than law, is susceptible of very elastic interpretation. We must know what the Sovereign has done, what her ministers have accepted as being within her province to do, if we are to understand her present position in the Constitution, and here we are faced by a serious delay in the availability of information. But we must do more than that to have an appreciation of political reality. We must estimate what are the real forces that limit her discretionary authority. History and law are essential guides, but they are not enough. Her authority in normal times may even be as small as is so generally believed. There are reserves of power attaching to it, however, which have been brought into action, and which are capable of being brought into action, whether formally or informally, behind the scenes or upon the stage. Their importance is more likely to be seen when there is a government of the left than one of the right, for they are in many ways connected with the continued existence of the House of Lords.

## Chapter V

### THE CABINET

#### I

THE task of co-ordinating the many different processes of government may be done by a single man—prince, president, or dictator, or by a committee. The body performing it will be in any case the chief directive agency of the State. Co-ordination cannot be undertaken save from above and with certain general purposes in view. Administrative decision is of such importance that the man taking it must for that reason have high political significance. A foreign policy decision must often be made by relation to defence and trade policy; an educational policy decision may require to be interwoven with health, labour or taxation policy, and so on. Therefore the minister must be ready to defer to the bigger considerations of general policy involved. If he himself is one of those responsible for creating this bigger policy then he is all the more likely to be able to make it inform his conduct of his own particular branch of affairs. A dictator, in any event, has to listen to the case put forward by a variety of ministers before he can make a major decision. The Cabinet simplifies this process by bringing them together. It has the advantage of several heads over one that more considerations may be allowed for, but it may also have the disadvantage of less decisiveness. That will mainly depend on the qualities of its leading members. But it has the vital task of co-ordinating policy. This means not only the linking of specific administrative decision by reference to a general policy, but the expression of the same general policy in legislation. The distinction habitually made between the agencies responsible for these two types of government action is only one of convenience in the modern State. The closer the co-operation between them the more integrated and efficient is the conduct of government likely to be.



Government by consent is the formula of democracy. Unless men are sheep there must be some element of consent among a large number of people in all forms of government. The real question is how far consent is active. How far is it made, that is to say, so constructive that a big proportion of the people see in the Government's purposes their own? In any society there is need not only for consent, co-operation, combination; there is need also for leadership. So much time must not be taken in trying to maximise consent that there is none left for action. To find the best mixture of the two is the chief problem of democracy. We could not re-arm when in our view it was necessary, said Mr. Baldwin as Prime Minister, because public opinion was not then ready for it. Was he being a good democrat in thus shewing his willingness to make his views of public necessity subservient to those of a majority? Or should he earlier have bluntly expressed his own sentiments and endeavoured to make the country follow his lead? In 1923 with the question of a tariff he followed the latter course, and failed. It may be said that it is useless to lead where the country will not follow. Statesmanship involves reconciling the ideal with the actual. But where the alternative lies between conducting the community along a popular path to disaster and trying to persuade it to adopt another and better one the statesman has to remember his responsibility to lead, as well as to interpret, opinion. Here in the fulfilment of this double function is the chief importance of the Cabinet. It is the supreme interpreter of majority opinion and it rules both majority and minority. Being responsible it must remember those to whom it will have to account in the future as well as those who entrusted it with power. It contains the most significant leaders of the party in power, who must be taken to represent the chief strands of opinion in that party, and so in their co-operation is the party's unity stabilised. These should be the men, too, most qualified to lead, when new direction must be given to policy and the majority persuaded to acceptance.

## II

Understanding of the nature of Cabinet government was curiously slow to develop. The chief principles were built up slowly from experience. Parliament was for long hostile to the whole idea of a Cabinet. Queen Anne intensely disliked drawing her ministers from a single party because she understood that if they were united she was in their hands, but already in her time the Sovereign was being forced to do so. Two factors underlay this development. The first was the steadily increasing power of Parliament after 1689, and particularly of the House of Commons. This made it necessary that the ministers of the Crown should be in harmony with the lower House and able to control it. The second was the growth of parties, through which that power was organised and became effective. Throughout the eighteenth century the chief importance of this factor lay in that the ministers learnt the strength of unity. By presenting a united front to the King they could generally force him to accept their advice or to face the alternative of finding an entirely new set of ministers, seldom an easy one although party organisation had not yet drawn a clear line of division between one side of the House and the other. And what was essential to preserve their power from royal interference was gradually seen to be of value in maintaining their authority over Parliament, and later over the electorate. The collective responsibility of all for the decisions of any one of their number thus became a cardinal feature of Cabinet government. The struggles of the seventeenth century had proved the necessity for Parliamentary support of the King's ministers. Without some measure of agreement the business of government could not be effectively carried on. Besides, there was always the possibility of removing a minister by impeachment. The power thus exercised by the House of Commons was consciously intended by it to give it control over the executive. The reason for it was the same as that which moved the House in the Middle Ages to demand the

right to elect the King's ministers. If these impeachment proceedings were criminal in form, they were political in motive. They ceased first to have criminal significance, and then, with the development of a direct political responsibility of the minister to Parliament and the acknowledgment that he must resign when he lost its confidence, impeachment became obsolete.

The slowness with which the necessary conditions of an effective system of Cabinet government were realised in England has characterised political development elsewhere. This has been so even where, as has been generally the case, a Cabinet system has not emerged until long after the main features of that system had become clearly marked in England. Homogeneity and the choice of his colleagues by the premier without interference by the formal head of the State has been one of the more difficult developments to ensure. Political responsibility, and the appointment as ministers of men active inside Parliament in order to secure it, has generally followed long after criminal responsibility has been established. In France, for instance, under Louis XVIII and again under Louis-Philippe, there is a hardly appreciable development in this sense. Non-intervention by the irresponsible formal head has been one of the hardest maxims to enforce. In the Germany of the Weimar Constitution it was seldom applied. It is not wholly without interest to speculate as to what effect an early achievement by the British Parliament of the right to elect its own executive might have had both upon the continued existence of a formal head of the State in any shape, and on the forms of Cabinet government in Britain and elsewhere.

Ministerial appointment remaining a part of the royal prerogative, the power has now descended entirely to the Prime Minister. But, as we have seen,<sup>1</sup> the Sovereign often exercised a considerable influence in the allocation of offices in the nineteenth century. Both William IV and Victoria successfully objected to appointments, and the latter suc-

<sup>1</sup> See Chapter III above

ceeded in postponing or preventing several promotions to the Cabinet<sup>1</sup> in just the same way as did Louis-Phillippe at the same time. It was, of course, necessary that the Prime Minister should acquiesce. He did not question the Sovereign's right to insist, but the right on his side to refuse to form a government was a contingent, if seldom mentioned threat, and if the Prime Minister yielded on some occasions the Sovereign yielded more often. The rivalries and opportunities, however, which exist at such a time give the King a chance of influence or pressure which even to-day may not be without importance. The Prime Minister's freedom of choice is also limited by the claims of eminent and powerful colleagues. There are always a few of these with important following who must be given the chief posts. Sometimes he may be faced by a group of four or five who make their acceptance conditional on the allocation of certain offices to specified people. Mr. MacDonald and four of his principal colleagues in his previous government together settled the chief appointments in 1929. This limitation is peculiarly important in the case of a coalition government as in 1916 and 1931. Further restriction is imposed by the need for having an adequate number of spokesmen in the House of Lords and for not exceeding the permitted number of secretaries of state in the Commons. It is not unknown for the Prime Minister to consult the Cabinet on additional appointments, and a minister is normally consulted on the appointment of his political under secretary. The Prime Minister has also to select a team which is likely to work together. He must consider the political and administrative capacity of his nominees and the special needs of the various departments.

Royal interference in the affairs of the Cabinet has always in the history of Cabinet government proved particularly difficult to avoid. The habit which developed in England in the eighteenth century of private meeting without the presence of the King, and which Talleyrand introduced at

<sup>1</sup> See W. I. Jennings, *Cabinet Government*, 1935, pp. 49 *et seq*

the French restoration, proved the first essential for preventing it. Collective responsibility provided an additional security. But it has long been open to question how far the Sovereign should be informed of differences of opinion within the Cabinet. Practice has varied on this point;<sup>1</sup> although with few exceptions the Prime Minister has adopted the principle that no names should be mentioned, he has not always applied it consistently. William IV seems to have received full information. So did Victoria when Melbourne and Disraeli were in office. On the other hand, Peel, Gladstone, and Asquith appear to have normally refrained from mentioning dissentients by name. The King is habitually told, however, of what shades of opinion were expressed at a Cabinet meeting. He has often succeeded in getting at the fact through lesser ministers. Victoria used Lord Granville and Rosebery to that end. Lord Escher used Morley and supplied Edward VII with the knowledge of disagreement which he thus obtained. Such detailed information may be of great importance as offering the King an opportunity to promote disagreement and assist the break-up of a government he dislikes. Lord Escher acted in this manner. George V spoke to Morley and Lord Crewe, endeavouring to secure their support within the Cabinet against presenting him with the unamended Home Rule Bill.<sup>2</sup>

### III

The Prime Minister is far the most powerful man in the country. He is sometimes, and not without reason, likened to a dictator. His formal powers, at least, resemble closely those of an autocrat. The prerogatives lost by the monarch have fallen for the most part into his hands, as the chief responsible adviser of the Crown. Those which have not been inherited by him direct have gone to the Cabinet; but he is its leading member; he forms it; he can alter it or

<sup>1</sup> See Jennings, *op. cit.*, pp. 266 et seq.

<sup>2</sup> Lord Escher's *Memoirs*, *Sunday Times*, February 6, 1938.<sup>1</sup>

destroy it. The Government is the master of the country and he is the master of the Government.<sup>1</sup> In addition he is the chief Member of Parliament, being often "leader of the House of Commons." His party, having a majority in that House, determines the action of Parliament, and he controls his party. Parliament can legally do anything and can actually do many things, and the Prime Minister decides its time-table, and can summon, prorogue, or dissolve it.

The Prime Minister's powers are enormous, but there is a sense in which it may be said that they belong to the office, not the man. The first way in which his position differs from that of a dictator lies not in the fact that he may be replaced, for a dictator may be also, but in the continuing preparation which is made through free and open criticism during his tenure of office for his replacement. While his office has become indispensable, he is not, and the system is so organised that a substitute for him can always be found whether by the action of the Queen, of his own party, or of the Opposition. There, is however, an important proviso: the substitute must be able to control Parliament. He must normally, that is to say, be the leader of the majority party, or a man whom a majority is prepared to follow. Since clearly this proviso seriously narrows the field from which a substitute can be drawn, it correspondingly increases his power by making him more difficult to replace. If the Prime Minister keeps the confidence of the majority he is as irremovable as a dictator.

Nor is it primarily because his powers are exercised differently that the Prime Ministers' position is unlike that of a dictator. Both are leaders of a party holding a certain political philosophy, promoting certain lines of policy, acting in accordance with certain principles. Both must consult advisers and interests before they act, if their action is to prove generally acceptable. Both are bound to consider consequences and cannot act merely arbitrarily as the whim takes them. The difference lies rather in that the operation of these limiting factors in the case of the Prime Minister

is provided for through prearranged channels, generally long established by custom, which form a part of the system of government, while a dictator regards them according to his momentary caprice, or disregards them at his cost. The former political system is likely therefore to be far more stable than the latter.

The Prime Minister is of course less in the public eye than the modern dictator. His colleagues share publicity with him to a greater extent. Sometimes one of them may even attract greater public interest and popular enthusiasm. He is still officially only the first among equals in his Cabinet, although in time of crisis or when he happens to be a man of especially long service or outstanding personality his rivals sink back into relative insignificance. Moreover, he is not the official head of the State, the symbolic national figurehead. The primitive instinct for worship of the tribal chieftain, and the investment of him with almost magical powers, expresses itself primarily in loyalty to the Queen, although it has some bearing also on the position of a political leader long in the public eye.

The Prime Minister's powers and functions include first and above all the making and unmaking of the Government. Having invited him the Queen must, if he insists, accept his nominations to places in the ministry. Royal advice has sometimes strengthened into successful opposition to a particular nominee, but the responsibility and therefore in the last resort the decision belongs to the Prime Minister. He can also rid himself of a colleague. Normally he does this in the process of a general reshuffle of Cabinet posts, for that is the best way of avoiding a slight on a person who may have Parliamentary or popular support; but not infrequently a minister resigns on his direct suggestion. Sir Samuel Hoare seems to have left the Foreign Office in this way in 1935. It would appear that one of the chief, and least used, arguments for the retention of an upper chamber is that it provides an opportunity for him to "elevate" and so get rid of a colleague, but there are many other posts in his

gift which can be used to the same end.

The patronage exercised by the Prime Minister is enormous. He is responsible for the granting of all honours, including the creation of peerages. Bishops, ambassadors, judges, the heads of departments, governors of the colonies, the chief officials of most of the permanent commissions and boards controlling public services are appointed by him. Naturally in the course of making such appointments he receives the advice of those most directly concerned, such as an archbishop or a minister, who may be the real source of nomination, but the responsibility belongs to him. He is the chief adviser of the Sovereign. He it is who advises the King on royal activities of an official character such as a visit to a foreign country or a tour of a part of the kingdom or empire. Mr. Baldwin, for instance, regarded it as both a duty and a right to offer counsel to Edward VIII about his association with his future wife. He did not do so on behalf of the Government but in virtue of his own position. When the differences which developed between himself and the King made it necessary for the Cabinet to be consulted the Prime Minister became as usual the link between King and Cabinet, interpreting the opinions and decisions of the one to the other. That has been one of his first functions since the principle of collective responsibility emerged. A part of it was the making of a report on every meeting of the Cabinet for the Sovereign, a duty now fulfilled by forwarding a copy of the minutes.

For the Prime Minister is the chairman of the Cabinet. As such he controls its agenda, accepting or rejecting proposals for discussion put forward by its members, and adding to them on his own authority alone. Being both the creator of the Cabinet and its most weighty and influential member, and having also the power to decide what shall come before it, he is naturally consulted by every minister before an important matter is put forward and his support solicited. He may quite possibly say, "I advise you to reconsider your suggestion for this reason or that, and meanwhile it had



better not come before the Cabinet. As guide of the Cabinet he is the chief co-ordinator of the policies of the several ministers and ministries. He, more than anyone, must endeavour to see the work of the Government as a whole, and to persuade a committee of men, the majority of whom are primarily concerned with a single branch of administration, to do the same. In carrying out this part of his work he is, or should be, assisted particularly by those of his colleagues who hold Cabinet posts with only nominal duties, such as the Lord President and the Lord Privy Seal. He is apt also to have one or two friends in the Cabinet whose judgment he specially values and whom he consults for preference upon the general problems of policy that arise. There may be one or two figures of peculiar eminence or power who must be consulted if Cabinet and party harmony are to be preserved. The Chancellor of the Exchequer as second member of the Government is generally one of these. So may be the Foreign Secretary, the Lord Chancellor, or the leader of the House of Lords. This inner Cabinet is often the really effective source of all important decisions.

As chairman of the Cabinet the Prime Minister is served by a small staff, headed by the Secretary to the Cabinet, who attends its meetings. The business of this secretariat, which was established by Mr. Lloyd George in 1918, is to prepare the Cabinet agenda, for which purpose it receives the necessary documents from the departments and circulates them. It is the privilege of members of the Cabinet to have any memorandum which they may wish to write on the subject of an item of the agenda circulated to the whole Cabinet before discussion takes place.

In regard to foreign affairs the Prime Minister has special responsibilities. Decisions of great importance have often to be taken with great speed before there is time to summon a meeting of the Cabinet. In such cases there is always consultation between him and the Foreign Secretary. The niceties of diplomatic interchange are not always easy to convey to a full meeting and it is therefore doubly necessary that

there should be complete understanding between the two ministers. And here also that long-term view which it is the special duty of the Prime Minister to ensure is particularly vital, as is the co-ordination of foreign with defence and trade policy.

The work of the Cabinet is increasingly performed through the mechanism of committees. These are of three kinds. There is the standing committee of ministers, such as those which in the Attlee governments dealt with defence, economic policy, the legislative programme, production, commonwealth affairs. Their number, composition, and functions depend on the Prime Minister's decision. *Ad hoc* committees of similar composition for dealing with a particular issue, or working out agreement on a proposed measure, such as a health service, are examples of a second type. Both of these work often with the assistance of high officials. Also there may be formal committees like the old Committee of Imperial Defence, and the Civil Research Committee which in 1930 became the Economic Advisory Council. These, while the Prime Minister and other ministers specially concerned sat on them, contained prominent officials or outside experts or both, and so were at a lower and more definitely advisory level.

The House of Commons comes to a large extent under the personal control of the Prime Minister. Generally he is "Leader of the House"<sup>1</sup> The party whips in the House are under his direction, holding sinecure paid offices as junior lords of the Treasury, to which he appoints them. Through them he issues orders to the rank and file of the party in the House and arranges its time-table. He wields the supreme power of dissolution and thus holds the security of Members on both sides of the gangway in the House in his hands. That is not, of course, to say that he will use this power lightly, for the fate of his party, his government, and himself may well depend on the way in which he exercises it. Nor is it easy to say to what extent the Queen is bound to accede

Since 1948 he has generally delegated this function.

to his request to dissolve. To refuse such a request when supported by a unanimous Cabinet might lead to criticism and bring the monarchy into the arena of political conflict. To accept it without evidence of Cabinet approval might do the same. But it is dangerous and would generally be regarded as bad tactics to criticise the action of a popular King, and this would be particularly true when his action merely led to a consultation of the sovereign electorate. George V granted Mr. MacDonald's request in 1924 even though an alternative government could have been found in the actual House of Commons, and this provides a strong precedent. Objection was not taken to his decision, although it is impossible to say whether criticism would not later have been heard had Mr. MacDonald's appeal to the country proved successful. To refuse a dissolution can in any case only be successful if an alternative ministry is to be found without it, and even then, although the incoming Prime Minister would by implication take responsibility for the King's refusal, the fact that the King had taken a personal decision of great political moment could hardly be obscured except with the connivance of the Prime Minister to whom he gave the refusal.

Having once been chosen, the Prime Minister ceases in gradually increasing measure to be the mere creature of his creators. As leader of the party in the country, and still more as the chief member of the Government and the greatest dispenser of patronage in public life, he takes on a new stature. Power makes him interesting. His personality is "put across" to the public by the Press, the newsreel, the radio, the cartoonist. His features and voice and peculiarities are made familiar to everyone in the country. He attains a public personality which, often enough, his friends would find a great difficulty in recognising as his own. He is converted into something of a symbol and a figurehead. Around him centres a certain amount of hero-worship. Criticism by his own followers is regarded as disloyalty. He has grown not only into a leader but into the chief buttress of party

unity, and in time of emergency of national unity. This public personality is one of the chief assets of his party at a general election. The more the ordinary citizen can be taught to love its peculiarities, to believe in its honesty, or to admire its courage and intelligence, the more likely is he to vote for the candidate who is its follower. Around the base of the pedestal upon which it poses there may be rivalry, but the statue is so valuable to the party and can so seldom be removed except at the cost of disunity that the man himself has greatly enhanced prestige, influence, and power.

The qualifications which are necessary for a Prime Minister thus begin to become apparent. He must have the courage for leadership, but at the same time he must be a good Interpreter of public opinion, able to judge the limits which it sets to the paths along which he can guide it. Especially must he have avoided antagonising sections of opinion before his position has become established. He should have a personality capable of inspiring loyalty in his colleagues and trust in the country, and if it can be made into one of great popular appeal that is an immense advantage. Parliamentary skill is important too; it is a part of the technique of dealing with the House of Commons. For that he must earn the reputation of fair mindedness by observing the Parliamentary decencies, shewing consideration to the Opposition, both in arranging the time table of the House and in the course of debate, and by showing deference to the "sense of the House." He ought to argue and persuade rather than impose. It is required of him that he shall be a good judge of character in forming his government and in exercising his patronage, and that he shall be able to work his team once he has formed it. He needs therefore to be a good colleague, sufficiently accessible and reliable. Nor should he be exclusively interested in a single aspect of administration. It is less important that he should be a good administrator than that he should have a wide enough interest and capacity. To be a great orator may be an advantage, but fashions in oratory change and quiet persuasive-

ness is more effective to-day than brilliant feats of eloquence and invective, although some of the greatest Prime Ministers have been masters of this. But there are certainly times when brilliance is distrusted, and what is looked for above all is sincerity, honesty, and good judgment.

#### IV

All committees tend to expand in size, and the Cabinet has proved no exception to this rule. The view is frequently expressed that the Cabinet worked at its maximum efficiency when it contained about a dozen members. That was in the middle of the nineteenth century. If it be true that its efficiency was greater then, there are many other causes to which this might attributed. Since that time the great increase in State activity has meant that much more comes up for ministerial decision, and that the minister's administrative duties are more complicated and numerous. Consequently he has far less time for discussing and thinking out the general lines of policy. Also it is true that political apprenticeship now seems to take much longer. The average age of the minister to-day is considerably higher than a hundred or a hundred and fifty years ago. These are two reasons why the Cabinet might be a less capable and less vigorous directive agency now than at some periods in the past.

The actual growth in number is sometimes accounted for simply by the creation of new ministries, such as those for Labour and for Air Defence during the 1914 war, and for Health, Agriculture and Transport immediately afterwards. The Ministry of Education was established in 1899, and the Dominions Office was separated from the Colonial Office in 1925. But the creation of a new ministerial office does not mean that its holder must necessarily sit in the Cabinet. In fact there are now as many "Ministers of Cabinet Rank" outside the Cabinet as there are in it, co-ordination being achieved by a series of committees at both the ministerial and official levels. Therefore the accretion of new ministries

is not in itself a sufficient explanation. It is even possible for two offices to be combined in the person of one man, and there is little to be said against such a practice where the two offices are not particularly onerous, as used to be the case with the Dominion and Colonial Offices; on the other hand the combination of the premiership with the Foreign Office has proved unsatisfactory.

The explanation, if it is to be found partly in the increase of State activity, is also to be attributed to habit, to the creation by custom of an accepted claim on the part of a department to separate Cabinet representation, and to the desire to give recognition and reward to politicians. Indeed, once the number has passed the optimum for reaching a real and creative consensus, a unity of mind and purpose, an *esprit de corps*, further additions seem to have little importance. This optimum is normally placed at anything between five and ten, but is certainly nearer the former than the latter. It is significant that under the strain of war the large Cabinet was abandoned in favour of a Cabinet of five which could meet so frequently as to be in almost constant session. It was found that the larger body was too cumbersome an instrument for producing the rapidity of decision required. This War Cabinet had the great advantage that, except for the Chancellor of the Exchequer, its members were without departments and were freed therefore from absorbing requirements of administrative routine. It was a thinking, co-ordinating and deciding body. As such it consulted whomsoever it pleased, including the departmental ministers and officials, and it worked with the assistance of several committees on which a Cabinet member was joined by ministers and sometimes by experts. The chief disadvantage alleged was that ministers did not have sufficient voice in decisions on policy affecting their departments. While therefore the principal merit of this innovation lay in the speeding up of decision and action on it, and in the pursuit of a single line of policy, its main defect was its failure to take adequate account of responsible views and to secure general enough

consent. Consequent criticism was stilled only by the urgencies of war, and became more and more insistent after the armistice.

The Churchill wartime coalition began in 1940 with a small non-departmental War Cabinet, but there was eventually a considerable enlargement with the introduction of departmental heads such as the Minister of Labour and the Minister of Production. Operational control of the war, however, was in the hands of the Chiefs of Staff committee, presided over by Mr. Churchill in his capacity as Minister of Defence, and other high level committees were responsible for other aspects of the War.

The Cabinet has now been restored to something like its pre war size the normal number is about seventeen, with as many Ministers outside the Cabinet. But war-time experience has not been without effect. The Cabinet secretariat is an inheritance from 1918. There is a greater use of committees. The tendency of the Prime Minister especially to consult with a few chosen colleagues, an informal inner Cabinet, seems to have become more marked. Here it may be that the larger Cabinet provides him with a wider field of choice. He has always two colleagues without departmental duties, the Lord President and the Lord Privy Seal, to whom he may add by including the Chancellor of the Duchy of Lancaster or further "ministers without portfolio" in his Cabinet. The machinery, it is true, is complicated, and retains some of the disadvantages which the War Cabinet was formed to remove. That it is unsuited to times of international crisis is tacitly admitted in the creation of a Foreign Affairs sub-committee. One of its dangers was revealed by the events following the Hoare Laval agreement, which the Cabinet had apparently approved without adequate consideration, although this may have been merely a convenient excuse. Like all machinery its success depends partly on personalities. But it is clearly more suited not only to peacetime than to war-time government, it is also more adapted to inactive than to active policy; to administration in line

with precedent than to the application of new principles involving far reaching changes. Where the administrative officials think and have long been accustomed to act along certain lines they will not be so effectively diverted into new ones by the present Cabinet system as they were by the war-time Cabinet system. Perhaps a compromise has been found in the committee method. The development of economic planning since 1945 has resulted in the Chancellor of the Exchequer becoming more than a financial officer: he now has a general control over all governmental economic activities. There is now a Minister of Defence, and the heads of the Service Departments are consequently outside the Cabinet. There is a vaguer group of ministries under the surveillance of the Foreign Secretary. Co-ordination is the responsibility of the Cabinet and of its committees; Sir Winston Churchill's experiment with special "overlord" ministers to co-ordinate various fields was eventually abandoned.

It is both interesting and important to go behind the forms and machinery of Cabinet government in order to consider what type of men have sat in the Cabinet, and to examine in what way the most powerful political body reflects the social order. What effect has the enfranchisement of new classes had upon the personnel of the Cabinet? The reality and significance of the extensions of political equality can be gleaned in some measure from the answer to such a question. If it were found that soon after the vote was given to the working man Cabinet positions began for the first time to be occupied by working men, no one would dissent from the conclusion that the one was the cause of the other, and that therefore the change in the personnel of the Cabinet was proof of real development in political equality.

✓ The question can best be examined by relation to three sections of society. There can be no doubt that in the eighteenth century and up to the reform of 1832 the aristocracy



governed the country. In the nineteenth century and until the War they were slowly being replaced by the upper middle class, by which one means the propertied and professional portion of the middle class. To these two there have since been added representatives of the small bourgeois and the working man. If one draws the dividing line between this last section and the upper class more generally, it is abundantly clear that the personnel of the Cabinet has throughout been exactly the same in its origins as the personnel of all the chief positions in the State service, administrative, military, judicial, and clerical.

There were eleven Prime Ministers between 1830 and 1900, of whom eight were the sons of peers, the other three being Peel, Disraeli, and Gladstone. None of the ten Prime Ministers between 1902 and 1952 was a peer or the son of a peer. While the commoners of the nineteenth century belonged by association rather to the landed gentry than to any other class, those of the twentieth are for the most part the sons of prosperous business men, like Campbell-Bannerman, Baldwin, and Chamberlain. Others like Asquith and Lloyd George are of less wealthy origin. MacDonald was the first child of working-class parents to become Prime Minister. It is worth noticing, incidentally, that their average tenure of the chief office in the State was a little over five years, and that in this period five ex-Premiers were content to serve later in subordinate offices.

Apart from John Burns and Arthur Henderson, who were wholly exceptional appointments, no son of a working man sat in the Cabinet before 1924. The hold of the aristocracy on Cabinet positions was slowly diminishing throughout the period. Between 1801 and 1831 some 73 per cent. were the sons of possessors of hereditary titles; between 1832 and 1867 they numbered 64 per cent.; between 1868 and 1905 they were over 58 per cent. It is only after 1906 that they fall below half, numbering about a quarter between 1917 and 1924.<sup>1</sup> The remainder came in all cases from the upper

<sup>1</sup> For these, and for much fuller details, see H. J. Laski *The British Cabinet, A Study of its Personnel, 1801-1924*.

middle class. The two older parties have always recruited their Cabinet ministers partly from the aristocracy and partly from the upper middle class, the emphasis being more on the former in the case of Conservatives and more on the latter in the case of Liberals. No son of a working man has ever sat in a Conservative Cabinet, and none—apart from those two exceptional appointments mentioned above—has ever attained Cabinet office in a Liberal-Conservative government. For they have had to wait for the two Labour governments which shew quite different types of personnel, and one or two have since been retained in the Coalition governments of the 'thirties.

Comparison between the Cabinet in modern England and in other countries reveals two points of contrast. It is drawn from a far more restricted social field in Britain than in any other democratic country. This is true whether the country considered is a constitutional monarchy like Sweden or Belgium, a republic like France or the United States, or even a British dominion. Differences of social class enter more into British politics than in any of these countries. The class division is thus revealed as politically more important in England. That party divisions correspond to it, and that consequently it is only when a Labour government is in office that the British Cabinet can be compared socially with those of other democracies, only serves to stress this point, although it indicates the tendency to move in their direction.

But secondly, if comparison is made with more authoritarian governments—whether it be of the first Napoleon or of the modern dictator that we are thinking—the most striking contrast lies in age. Youth seems to be barred from the British Cabinet of to-day, unless we are to regard a man of fifty as a youth. Yet Hitler and Mussolini were both well below that age when they achieved the supreme control. The British premier is generally about sixty when he first attains that rank. Mr. Chamberlain was nearer seventy than sixty when he first became Prime Minister. For a lesser

Cabinet minister to be about forty is quite exceptional. This involves two dangers of very real importance. Men of such advanced years are unlikely to have that energy, resource, elasticity, and forcefulness which is required of effective leadership. Tired government can never be good government. It means also that the Government is likely to be mentally and emotionally out of touch with the greater part of the community. That change of generation which Bagehot believed to have great importance in politics is likely to be delayed in the highest positions of the State until it is out of date. A continuing disparity of outlook between the generation of rulers and the generation of ruled is bad for any system of government. That a Labour premier has formed Cabinets whose average age is higher than those of other party leaders does suggest that one reason is probably the lack of economic security in the profession of politics. The position in this matter does not seem to be improving, for the average ages of both the Churchill cabinet of 1951 (on formation) and the Attlee cabinet of the same year (on resignation) were about 60, whereas that of the famous Asquith cabinet of 1908 was under 55: and the more important offices in it—the Foreign Office, the Exchequer, the Board of Trade—were held by comparatively young men.

## Chapter VI

### THE PARTIES

#### I

TO DAY political parties are accepted as a natural and inevitable piece of the machinery of democracy. They are required it is thought, for the proper working of democracy for two reasons. They are the means by which the citizen is presented with the choice between alternative rulers, and they explain to him and educate him in the merits and dangers of alternative policies. By them alone can the people rule.

Parties have also been described as "the mechanism by which the class state was transformed into the nation state."<sup>1</sup> They are necessary, it is urged, for the achievement of democracy. Economic interests and social classes organise themselves into parties to accomplish their purposes. When each citizen counts for one and not more than one, the class which prevails is likely to be that which most nearly corresponds to the nation as a whole. There will be opposition, a privileged order will try to prevent, or at least to modify, the attainment of equalities, but it will have to do it by appealing for popular support. The progressive achievement of social democracy will be fought and may be slowed down by the governing class organised as a party. But since it is numerically less important it will gradually and ultimately fail. The legal means offered by universal suffrage will enable the nation to prevail over any class within it. The method by which it prevails will be the party system, the conflict between a party of resistance and a party of movement. The corollary to this thesis has sometimes seemed to be that once the nation-state has been achieved, party has lost much of its justification.

These views, however, both of the working of democracy and of its attainment, were not held in the past, and may not

<sup>1</sup> MacIver, *The Modern State*, p. 400

be held in the future. Early theorists of democracy never envisaged a party system. They thought of parliaments as large deliberating assemblies representing a single interest, that of the people as a whole. A parliament was to be a council of state, the nation in miniature, to which men came with open minds, where they would reason, argue, listen, and finally decide on the basis of what they heard. We find no provision for party in Bentham, that most practical of political inventors. There is none in the Constitution of the United States or in the nineteenth-century Constitutions of France, the directorial Constitution even going so far as to prescribe a monthly change of seats to prevent the development of groups.

Nor is the modern dissatisfaction with the party system to be overlooked. The conception of party as something which divides and weakens has gained ground, on the claim that it renders government unstable, that it leads to a faction fight in which the interests of society are subordinated to those of party bureaucracies, that it makes every act of social value the subject of an unreal party conflict organising opposition for the sake of opposition, the main consideration being to score off an opponent so as to reveal his inefficiency or to make him unpopular, and at the same time to claim his place. A movement pretending to represent within itself the interests and views of all sections of the people has exploited that dissatisfaction with success in Italy, Germany, and elsewhere. In England the "National" Government did something of the same kind, if with less violence and without as crude methods for suppressing opposition. Communism makes a similar claim to all inclusiveness within a single movement, arguing that parties outside it must be regarded as treasonable factions representing the interests of a class whose existence is incompatible with a healthy society and which will in time disappear.

## II

Whatever may be the past attitude to parties or their prospects of continued activity, what they are and do is of the essence of government in modern England. They are one of the factors determining the action of the Cabinet, of Parliament, the King, the electorate.

The House of Commons, and therefore a majority of its members, is the formal centre of power. In order to influence that power the individual must relate himself to it. He may do this by anything from the vote of the humble citizen to the speech, the command, the decision on policy of the leader. The group, the interest, or the class is under a like necessity. It may petition and make representations, or it may use the more persuasive methods of subvention to party funds, of running party candidates, so that its own representatives may be present to voice its interest or express its opinions. To individual and groups alike this majority of the Commons is both the instrument and the limiting factor. To all of them the party is the agency through which these relations with a majority or a potential majority are secured.

The amalgam of philosophy and interest which each of the actual political parties represents can only be properly understood in its historical context. In the aristocratic political system of the period from 1689 to 1832 parties were divided in principle by their attitude to church and throne; in practice they were merely rival groups of wealthy families and their satellites, striving for place and power and offering themselves to contending princes as instruments in the battle, but united in their common wish to exploit the government for the same ends even though the individuals who would benefit were different members of the same upper class. Tories had more reverence for church and throne, Whigs for Parliament, the one for legitimism and authoritarianism, the other for Locke's doctrine of consent and the principles of 1688. Both equally accepted the secular order and the need for its support by religious sanctions, but while

the Tories feared encroachment by the mob, the Whigs looked more anxiously at the King.

The reform of 1832 hardly affected the traditional attitude; even after 1867 and 1884 it still lingered on. Great families had to base their claims to government on appeal to the growing electorate instead of on prescriptive right, even though for the next fifty years the method of that appeal might be direct bribery and that indirect corrupting power given by social position, wealth, and traditional political authority. The victory of the middle class in 1832 gave to business interests an entry into the charmed circle of power, and as industrialism, wealth, and population increased the old party alignment took on new form and newer content. Conflict between families and placemen became more and more a struggle between rival economic classes, the traditionalist party taking on the defence of landed property, with its eighteenth-century view of an hierarchical society, and becoming "conservative," the more democratic party sponsoring the cause of freedom for the business man, adopting the philosophy of utilitarianism—where it suited its purposes—and the principle of *laissez faire*, and becoming "liberals." But the old family interests still retained an important share in party control. This was naturally a more marked feature of the Tories than of the Whigs. If the pocket borough had officially disappeared, the wealthiest county families still contrived to secure the reversion of county seats to their own nominees. This was easy before the ballot became secret in 1872, and even after the enfranchisement of the agricultural householder in 1884, wealth and social position have greatly reduced the difficulties of a continuance of the traditional system. Not until the last quarter of the nineteenth century is the continuing power of the old nobility put in question, and even then it takes the form of a quarrel within the ranks of an upper class, though it be guided by the fear of their own downfall. Just as it was later to be claimed that the Whig leaders were out of contact with the ideas of the new liberalism, so with

Disraeli's death began the young Tory revolt against Lord Salisbury with Lord Randolph Churchill as its standard-bearer. The party's "leaders . . . are a clique," they said, "composed of members of the aristocracy."<sup>1</sup> This revolt led by the son of a seventh duke against a third marquess shewed more than the hot headed impatience of youth. Like the Liberal revolt, it was a sign of the times. To maintain the party position, it was in fact being said, appeal must now—since the enfranchisement of a million members of the town working class in 1867, and, above all, since the addition of twice that number of agricultural and other workers in 1884—be made to this more extensive electorate and to a generation less ready to acknowledge the superiority of a traditional landed aristocracy over a bourgeoisie increasingly wealthy and respectable. "If the Tory party is to continue to exist as a power in the state it must become a popular party. . . . The party chiefs live in an atmosphere in which a sense of the importance of their class interests and privileges is exaggerated, and to which the opinions of the common people can scarcely penetrate. They are surrounded by sycophants. . . . They half fear and half despise the common people." The struggle in the Conservative Party resulted in victory to the leaders. Churchill, who was given the second place in the Salisbury government of 1886 because he represented urban and industrial Toryism, contributed to his own defeat by hasty resignation and ill-considered opposition. The provincial associations rallied round the national leaders to preserve party unity, and "the representative organisation became almost a satellite of the leaders."<sup>2</sup> So it has remained. But the lesson was learnt. The same division between the traditionalist, drawing his strength and inspiration from the agricultural south, and the Tory democrat, who remembers the industrial north, has produced, it is true, its crisis in the modern Conservative Party. The first requisite of the

<sup>1</sup> Quoted in Ostrogorski, *Democracy and Political Parties*, vol. 1, p. 265, from a letter to the Press issued by Gorst and Drummond Wolff.

<sup>2</sup> *Ibid.*, p. 323



successful Tory leader is that he shall know how to maintain that alliance. Salisbury did it by appealing to the spirit of imperialism and uniting with the Liberal Unionists, Baldwin by resorting to the idea of national unity so popular in the post-War Europe of dictators, and by adding MacDonald and Simon to his collaborators. Granted this able recognition of necessities, the great families have been successful in maintaining a remarkable share of the Cabinet offices, as a glance at the Baldwin and Churchill governments will show. To them is now being added a wealthy industrial oligarchy that is already entering on its second and third generation.<sup>1</sup>

In the Liberal Party the quarrel that broke out in 1886 between the Whigs and the Radicals had two effects. It meant that the Birmingham caucus "lost most of the men who lent it respectability."<sup>2</sup> With Chamberlain they went over as Liberal Unionists to the Tories, and the great majority whom they left behind followed Gladstone. It meant also that the party machine, having lost its chief figures and owing its survival to association with Gladstone, came under the dominance of the official leaders and was moved to London. Gladstone himself, however, acted as a brake on the Liberal coach and the Whig element was strongly represented in his last Cabinet, half of whom were peers. The party machine of the Liberal Federation, that proud Liberal Parliament in which discussion had been largely free and where many radical proposals had been aired, had now come under the control of Gladstone and the official leaders, and that control was used to stifle the discussion of inconvenient suggestions such as an eight-hour day (1891), and the machine became more and more a rubber stamp for official decisions. Protest came from Labouchere<sup>3</sup> and others on the more pro-

<sup>1</sup> Mr Baldwin, the son of an industrial magnate, and one himself, the Chamberlains, Runciman. In his Cabinets there figured the sons of Lords Salisbury, Londonderry, Harlech, Derby, Scarsdale, Peel, Halifax, Zetland, of the Dukes of Northumberland and Devonshire, and the nephew of the Duke of Fife.

<sup>2</sup> Ostrogorski, vol. 1, p. 300.

<sup>3</sup> *Ibid.*, vol. 1, p. 304.

gressive side, but it was unavailing. "The notion of political orthodoxy penetrated the Liberal organisation from one end to the other. . . . The principal leaders of the caucus proved far more intolerant than some of the official chiefs of the party, and were strongly opposed to all moderate and conciliatory language."<sup>1</sup> A regular party purge was carried out.<sup>2</sup> The inevitable consequence followed. The group of Radicals within the Parliamentary party took to acting independently. But more seriously the party was in fact taking the first steps towards its own disintegration. It was failing to realise that it was not catching the imagination of the working-class whose votes had been a growing proportion of the total since 1884. They, on the contrary, were coming to regard the Liberal Party as quite as little concerned with their interests as the Tories. Both parties being devoted, despite their hollow protestations, to the selfish interests of capitalism, labour began thereupon to look to the formation of its own group of representatives. The failure of the Liberal organisation to retain the Radicals laid the foundation of its later decay. A great party must find room within its ranks for the future as well as the past; for a great party is a movement that grows and must change with growth. Unless it conforms to this rule of life a progressive party is even more certainly doomed to die than is a conservative party. Yet the Conservatives were in the long run more successful than the Whigs in adapting themselves to the necessities of change, for the struggle that should have been settled in the last days of Gladstone had yet to be fought out, when the whole reason for it had gone, in the days of the Whigs, Asquith and Grey and the Radical Lloyd George. The unadaptability of doctrinaire liberalism has left its dismembered body scattered, like some prehistoric mammal, over the history of fifty years with one brilliant epilogue from 1906 to 1914 of a resuscitated Whigdom.

The Labour Party is to the continental observer a curious

<sup>1</sup> Ostrogorski, vol. 1, 307.

<sup>2</sup> *Ibid.*, vol. 1, pp. 307-9.

phenomenon in every way typical of English politics. It was formed as the political instrument of the trade unions. Faced by the failure of the two older parties to concern themselves in any genuine way with the interests of the working-class, the trade union leaders decided to aim at the forming of a group in Parliament<sup>1</sup> that should have these interests solely in mind. Legislation and administrative influence were both to be secured by the adoption of the tactics so successfully applied by the Irish nationalists. Even quite a small party—and a large one capable of forming a government was not within the ambitions of England's always humble working-class—might hold the balance in Parliament, and exact a price from the Government in the shape of improved labour conditions. In 1900, its first year, the Labour Party had 376,000 members, of which 353,000 were represented by the trade unions which had formed it. The remaining 8 per cent. were Fabians or members of the Independent Labour Party and the Social Democratic Federation. This party, frankly formed to express the views of an economic interest, was for the first eighteen years without that "philosophical or speculative system of principles annexed to its political or practical one" which, as Hume said, is necessary to any party "to protect and cover that scheme of actions which it pursues."<sup>2</sup> The process of annexing took place gradually and uncertainly, so that at no time was it possible to say that the party knew precisely at what form of society it was aiming or what were the obstacles in its path. Although by its own definition a class party, formed because of the selfish pursuit of their own class objectives by the upper and middle class parties, it did not see in the conditions of its own birth, or in their hostility, any reason to presume a class struggle, or to relate that struggle to a political philosophy different from theirs. On the contrary, it took over its philosophy ready made from the Liberals. But it was slowly penetrated by the Fabian ideas, which looked to a gradually increasing

<sup>1</sup> See Egon Wertheimer, *Portrait of the Labour Party*

<sup>2</sup> *Of the Original Contract.*

field of State control over industry, a steady growth in the provision of social services like education and insurance, and equalities of income. This definition of its aims was given in the policy declaration of 1918, "Labour and the New Social Order."

The Labour Party owes much, nevertheless, owes its soul perhaps, to that spirit of socialist radicalism which has hovered at its edge now inside and now outside its official ranks. There is the utopian socialist experimentalism of Robert Owen, the philosophical anarchism of William Godwin, the industrial democracy to which Mill's later work pointed the way, the heroic idealism of William Morris. And in the 'eighties and 'nineties the influence of Marx through his disciple Hyndman, the leader of the Social Democratic Federation, added further concreteness to the theories of these groups. Fabianism with its academic inspiration and its method of permeation was both a creed and a strategy. The characteristic emphasis on land as a distinctive form of property, the first form to require attack, given by Mill and Henry George also did much to colour the policy of the same period. What radicalism and socialism, and therefore the Labour Party, owes to violence such as the Chartist agitation at home, the fear engendered by continental revolutionary movements, and war, with the stress it lays on the importance of labour as well as the abuses and inefficiencies it reveals, is a story of possibly great moment that has yet to be told. The connection between this and the successive stages of electoral reform is not difficult to trace. Upon that series of reforms it has been possible for the Labour Party to build its strength.

### III

#### PARTY ORGANISATION AND ELECTIONS

The party organisation in anything like its modern form must be traced back to the registration societies which sprang up after 1832. While it was necessary for the citizen who

wanted to vote to prove his right first and then pay for registration as an elector, it was natural that those who wished to secure his vote should undertake the business of getting him registered, should oppose the registration of those upon whose votes they could not count, and should organise themselves into association for that purpose. But the increase in the electorate in 1832 was small, only 217,386 on a previous total of 435,391, the real significance of the reform being in the redistribution of seats. It did not even change the requirement that an M.P. should have a landed estate of an annual value of £600 for a county and £300 for a borough. In the next twenty five years only 403,882 had been added to the register through the growth of wealth and population. The real need for party organisation did not begin to be felt until the reform of 1868 made the biggest proportional increase to be known until 1918. This alone added 938,427, nearly doubling the electorate by bringing in the town worker.

In the years following that reform the parties began to develop their present technique of organisation outside Parliament. The Tories under Peel's leadership had lost no time after 1832 in forming local associations for the preservation of the Constitution and the registration of electors, as well as a central party office. In 1867 these were combined in the Union of Conservative and Constitutional Associations which held its first annual meeting in 1868. This body, accepting the hierarchical view of society, was content from the first to be the instrument of the central office and to pay due deference to the ukase of the leaders. With a short interval of revolt in the name of Tory democracy under Randolph Churchill, in which the leaders learnt to allow for the new classes of elector, it settled down to its traditional views. Subservience was the keynote of these; the Union did not and does not determine policy or choose the party leaders. Harmony seems to result nevertheless from the community of interest that interweaves party organs. The Union organised constituency and even ward committees

which the local bigwigs controlled. It left to these a real measure of freedom in political activity extending to the choice of candidates. It went so far as to accept and even to promote the establishment of Conservative working men's clubs, for it had recognised that great discovery of Disraeli: the Tory workman. But it gave him no real share in party counsels. To do so would indeed have been unthinkable, for it was contrary to the central principle of its philosophy, that society is rather like a disciplined army where the lower ranks take orders from above. If occasionally they allow themselves the liberty, not enjoyed by the soldier, "to reason why" the answer is confidence in the authority from which comes the command, is humility in the face of those who know better. Even if confidence is sometimes misplaced the consequent error is a small price to pay for the maintenance of that admirable Constitution which allows liberty to the workman within his proper sphere, and which trains up a class of gentlemen who disinterestedly lead him along those paths where duty and self interest happily combine, and the stability of property and society results. While Bradley preached the acceptance of one's station in the social order and the fulfilment of its duties, Disraeli gave to that philosophy romantic and colourful expression, and after his death "the Primrose League" carried on within the party the work of providing industrialism and landlordism with a mirror that reflected the glamour and chivalry of the Middle Ages. Essentially the Tory's is to-day "the conception of authority limited in the exercise of its 'just powers' by popular consent."<sup>1</sup> That is to say it is honestly authoritarian. As long as the right to exercise these "just powers"—that is, actual powers—is not questioned, they will be, or at least should be, exercised charitably with as much kindness and consideration for the less fortunate as possible. Given this hierachical "universitas" it is even possible naïvely to ask with another twentieth-century Conservative, "How can

<sup>1</sup> Lord Eustace Percy, *Government in Transition*, 1934, p. 4

there be any national government except Toryism? Its base is as wide as the nation itself."<sup>1</sup>

The history of the Liberal organisation is a very different matter. The Radical caucus inspired by Harris, led by Joseph Chamberlain, and organised by Schnadhorst at Birmingham in 1867 and the years immediately following, was more democratic. The idea was to win the confidence of the new electors by associating them freely in local parliaments in every ward where they would discuss civic and national affairs, educating themselves in the process, becoming conscious of their responsibilities and their power. It was to be a spontaneous organisation of public opinion. In harmony with the extending spirit of democracy, influence was to be exerted over rulers from below—and more than that, decision was to be taken by the people which their representatives must loyally carry out. Not only were the sixteen ward meetings of Birmingham to discuss, they were to elect delegates to a central executive and a deliberating assembly for the whole town, which should crystallise their influence. Discussion was of course destined to be carried on under the leadership of those who had inspired it. These were for the most part successful business men, and they provided themselves by this means with an admirable instrument for making their influence felt. First they secured control of the municipality and were free to carry out an excellent policy of public works and civic reform. Then they were able to use this machinery for getting themselves or their nominees returned to Parliament and for bringing the weight of the public opinion they had so ably organised to bear upon national leaders. Having their finger on electoral opinion they could stimulate it and direct it, and they could learn from their contact what it would stand and what it was really thinking.

The discovery in Birmingham of what a well-organised party can do by way of providing active workers was to impress itself profoundly on the whole political structure

<sup>1</sup> Viscount Lynton, *Ich Dien, the Tory Path*, 1931, p. 126.

of the country. Its success in securing a compact and invincible Liberal majority in Birmingham seemed to prove that organisation was the secret of political victory. The parallel defeat in the national elections of 1874 was attributed to inadequate organisation. Secrecy of the ballot had made elections more difficult to manage without preliminary activity since 1872. The Birmingham method spread to one town after another. It was the answer which the commercial interest gave to the Tory landed interest with its respectful counties, and it was to play havoc with the independence of the ordinary Member of Parliament. But while the machine which the Liberals were creating could be used for the time being against the Whig leaders, it was not for long to remain the private property of its creators. For that it was both too powerful and too conscious of the importance to its own survival of unity with the leaders. Also the method of oratorical appeal to its rank and file which Chamberlain had used could be applied with equal success by a still greater leader. When Gladstone sprang Home Rule upon his party in 1886 he was able to carry the caucus against Chamberlain. He had prepared the way by frequent praise and contact, and he had shewn himself well able to voice the feelings of its members in, for example, the agitation over the Bulgarian atrocities. It was not long before what had once been a relatively independent democratic machine in touch with the spontaneous trends of opinion had moved its headquarters to London, where it would be under the eye of the leaders, and where the arch-organiser and manipulator, Schnadhorst, now their ally, could steer it along a course of which they approved.

But for the future no party of progressive character could disregard the lesson in democracy which the Birmingham organisation had taught, and when a Labour Party came to be formed it followed very closely along the lines laid down by Chamberlain and his friends.

At first a federation of trade unions with a few socialist societies admitted to its ranks, the party opened itself in



1918 to individual membership. Its subsequent growth of electoral power was rapid. The constituency party organisation consists of ward meetings which all members who pay their minimum subscription of six shillings a year may attend. The ward generally has a secretary, chairman, and collectors, it has the right to send delegates to the general committee of the constituency party, which in turn elects an executive. The general committee also contains the representatives of any local trade union branch or society that is affiliated. Extent of representation is proportional to membership. The general committee can discuss policy. It controls the affairs of the constituency party. Its secretary and chairman are often the most influential members of the party. In one out of about three cases there is also a paid agent. The committee instructs and sends delegates to the national conference.

The annual conference of the party is itself made up of the delegates of local parties, affiliated bodies and trade unions. It is the final authority. Its decisions determine party policy. Resolutions come to it from the bodies it represents, and from its own executive, the latter of course being the most important. They are debated in public session and a card vote is taken. This method of voting is hardly in accord with the best principles of representation. Under it many a delegate does not vote as a member of the conference sensible of a corporate responsibility with his fellow-members, but as the representative of a group which has instructed him beforehand to vote in a certain way. His vote, moreover, is weighted by reference to the size of the union or party for which he speaks. A single trade union delegate with, say, 400 votes may have a majority over 350 separate local parties, and he may come instructed to vote one way. Conference discussion therefore need not have any relation to the decision that follows, although as many delegates are not so instructed it generally does.<sup>1</sup> Labour Members of

<sup>1</sup> But it must be remembered that when you are addressing 750 voters, and 300 of them are absent, you will know that neither cogency nor eloquence will determine whether your cause wins or loses, and you may prefer to be silent.

Parliament, candidates and peers are ex-officio members of the conference but without a vote.

The executive committee is elected by the conference for one year, and it meets normally at the head office once a month. It consists of the leader and deputy leader of the Parliamentary party, 12 members chosen by the trade union section of the conference, one the socialist, co-operative and professional organisations section, 5 women chosen simply as women, and 7 representatives selected by the constituency party delegates. The trade unions, that is to say, have a considerable majority. The executive in 1950-51, a typical year, contained 18 Members of Parliament out of its then total membership of 26. All eight who were not Members belonged to the trade union section of the executive.

The trade union chiefs, however, sit generally on the General Council of the Trade Union Congress, which does not permit them to be also on the Party Executive. They are thus free to criticise party decisions. It was partly to bring them into the area of responsibility that the National Council of Labour, discussed below, was created.

The work of the executive is to give a central direction to the conference and the party generally. It has the duty to carry out the decisions of the conference; it supervises the central office, instituting investigations, drawing up policy reports, and has disciplinary power. It is assisted by the headquarters staff and by a number of committees. There are, for instance, an advisory committee on international affairs, and sub-committees, mostly including co-opted members, on such subjects as constitutional matters, local government and social services, the reorganisation of industry, finance and trade, general policy, and party organisation.

At the central office a staff is employed for the secretarial work of conferences and committees, for research and information, for publication, and for national organisation throughout the constituencies. The National Agent has organisers under him settled in different areas, and with their help his task is to keep an eye on the local parties, advising

them on organisation, stimulating them and warning them when their activities shew signs of permeation by elements of which headquarters disapproves. He or his representative generally attends the selection committee, at which a candidate is adopted. His office supplies a list of approved names, and he can specially recommend a candidate favoured by the executive. As a grant is made from the central fund during a general election, which figures as the biggest item in the budgets of many local parties, and as, under a special insurance scheme, contributions are collected which often cover the entire expenses of a by election, headquarters has a strong financial argument with which to prevent the adoption of unendorsed candidates. Further, it contributes to the expenses of particularly poor areas and there is a long-established scheme for giving grants in-aid of the expenses of many of the local agents, of whom there were 279 in 1949.

According to the Labour Party Handbook of 1951 the party had a total income of £203,147, of which £123,655 came from trade unions. Local parties usually contribute about £18,000, and about £43,000 comes from the sale of literature. The General Election fund stood in 1950 at £156,000, of which £148,000 had come from trade unions and £6,000 from constituency and individual contributions.

Thus it can be seen that the historic connection of the trade unions with the Labour Party still gives them a governing influence. They control a large majority of the votes in the conference, they elect a large proportion of the executive; their membership of the party is about six times greater than its individual membership, although the latter has risen steadily. Trade unions enjoy opportunities of influencing the work of the local party through participation in all its affairs, as they are represented on its general committee; but they also have a separate and additional representation on the national conference. Although many constituency parties feel this to be unjust and against the political interests of the party when they find themselves overruled by the big battalions at the

conference, and in 1935 formed a special federation among themselves to claim greater influence,<sup>1</sup> winning an increase of two representatives on the executive and the right to choose them without trade union intervention, trade union influence in the party is still a dominant factor. The reason for this is to be found rather in finance than in personal ability and prestige. The trade unions contribute three-fifths of the party's national finances; and in the constituencies where the working-class is strongest they often represent an organised body within the party that can control its operations.<sup>2</sup> This means that their nominee has often the certainty of adoption as Parliamentary candidate. Not unnaturally, but often with bad effect on the strength of the Parliamentary party, they have been apt to adopt a union official rather by reason of his long service than because he is judged capable of serving them prominently on the stage of national and international politics. Safe seats, that is to say, are apt to go not to a national figure of Labour politics but to an often elderly and unknown union official. Thus in the 1935 election in the thirteen constituencies where the Conservatives did not think it worth while opposing Labour the candidates were all financially sponsored by trade unions, and not one of them had been or shewed signs of being likely to become of Cabinet or even ministerial rank. The trade union control of good seats is still further shewn by the fact that in 1950, while only 42 per cent. of the candidates financially backed by local parties were successful, the percentage for trade union candidates was 78 and for Co-operative Party candidates 54. If the greater financial resources of the constituencies which were successful also contributed to their success that only serves still further to emphasise the chief characteristic of the party, its dominance by trade union votes and money. But on the other

<sup>1</sup> Replaced by a regional organisation of constituency parties established by the executive in 1938

<sup>2</sup> In some parties, on the other hand, affiliation is only accepted on condition that the union shall not have more than one third of the total voting strength

hand two facts must be remembered. While in some respects there is conflict between the two sections of the party, the area of agreement is probably much wider, although in measure as the party's socialist objectives are achieved this may become less so and provide new party divisions. Secondly, the trade unionists themselves, especially in local committees, are already shewing their increased awareness of the need for considering their political objectives in the widest possible way and of their serious political responsibilities.

The trade unions have a further opportunity of influencing party decision in their representation on the National Council of Labour. This body for co-ordinating the policy of all branches of the movement consisted in 1952 of 8 representatives of the General Council of the Trade Union Congress, 4 of the National Executive of the Labour Party, and 4 of the Executive Committee of the Parliamentary Party, and 8 of the Executive Committee of the Co-operative Union. It is the apex of the movement, the executive of executives. In a case of first rank political importance like that of Labour's policy in relation to Fascist intervention in Spain in August 1936, it was in this body that the matter was first considered and that the first steps towards giving the movement a lead were taken, although the matter was referred to an urgent joint meeting of the three executives. Here it would seem to be of paramount importance to any well organised political party that the responsibility for leadership should be placed upon the responsible political leaders. They are the best qualified, although of course they will need, and no doubt take, advice. Their influence should be the most weighty in such counsels, and perhaps it is.

The Parliamentary Party, the third body represented on the National Council, has its own chairman or leader, vice-chairman, executive committee, and whips or organisers. They are all freely elected by itself, and its choice of the first is clearly of great national importance since, provided the party abides loyally by its choice, it is to him that the

Sovereign is bound to turn to form a government when the party wins a majority. If the leader, being premier, should die or wish to resign, it is no longer to any advice that he may have given as to his successor that the Queen will turn. The choice of the leader in the older parties has generally followed less formal methods. When Harcourt resigned from the Liberal leadership, for instance, his place was offered to Campbell Bannerman by the four chief men in the party in a letter written by Asquith, who was already beginning to be indicated as Campbell Bannerman's probable successor. It is true that "the choice of the four needed the formal ratification of a party meeting, but for all practical purposes it was decisive."<sup>1</sup> The formal meeting consisted of Liberal M.P.s who met at the Reform Club. When Mr. Chamberlain succeeded Mr. Baldwin the choice seems to have followed the same lines, being subsequently confirmed by a meeting at which peers and candidates were also participants. The absence in these parties of formal machinery has sometimes left the Sovereign some freedom of choice. But although similar methods may be informally employed within the party executive it is to the person chosen by it as Labour leader that a future Sovereign will turn. Nor, again with the same proviso, may he usefully consult with elder statesmen and then exercise his own choice as did Queen Victoria in the case of Harcourt and Rosebery or as, in a less degree of independence, did George V in the case of Curzon and Baldwin, on the contrary he must defer to the selection of a successor freely made by the Parliamentary Party.

While the party in Parliament is bound theoretically by the decisions on policy taken by the conference, it is its own judge as to how to interpret and apply them. Time, order, and method are so much the substance of policy that its decision, whether taken by its leaders in executive or Cabinet or by itself as a whole, must be at least as important as that of the conference, when the party forms the govern-

<sup>1</sup> *Life of Campbell Bannerman*, vol. I, pp. 214-19.

ment. But although the considerable overlapping of personnel makes conflict less probable, the possibility of adverse comment by the conference is a factor that the Parliamentary Party cannot afford to overlook. When, on the other hand, the party has a majority, the number of Members of Parliament sponsored by trade unions is likely to be a smaller proportion of the whole, and the political side of the movement, the constituency parties, is likely to be correspondingly more powerful; and they, too, cannot be disregarded.

The Trade Union Congress does not call for special consideration here, but it must be remembered that it takes decisions on political as well as industrial policy, and that the direction it gives to the movement at its annual conference has a marked influence on the party. Thus we not infrequently find that a resolution on national policy of great moment, such as that on the invasion of Abyssinia by Italy, may be drafted and passed first in the Congress and then adopted verbatim by the conference. The political side of the movement may find its freedom of action hampered thereby, although, as in that case, slightly different interpretation may be given to it by the political leaders who have considerations of a wider political character in mind.

Then, finally, there is the Co-operative Party which put forward 32 out of the 617 Labour candidates in 1950, pays for agents in many constituencies, and contributes expenses in others. A loose working agreement with Labour provides for a national joint committee, and some criticism has occurred of what is claimed to be the somewhat privileged position of the Co-operative Party owing to its power to make separate arrangements with divisional Labour parties, agreeing to finance candidates. But it hardly seems that this is a greater power than that enjoyed by the trade unions. The party is composed of those co-operative societies which have joined together to create it. It affiliates with the Labour Party locally and not nationally, unlike the Royal Arsenal Co-operative Society which, having been formed before the Co-operative Party, is affiliated nationally.

## -IV

Enough has been said about the finances of the Labour Party to shew that they are remarkably small. It fought in 1935 with a central general election fund of £22,000, or an average of under £44 per constituency, as against a permitted expenditure that averaged at least £1,000. In 1952 the fund closed at £119,000, still a relatively small figure. This, of course, does not take into account contributions made direct to divisional parties, but there is no reason to suppose that these are anything approaching Conservative or even Liberal Party contributions, although the post-war years may have shewn a nearer approach to them. The Conservative Party does not publish its balance sheet for reasons best known to itself. Probably the difference between its income and that of the Labour Party would be seen to be so glaring that there would be a risk of a demand for greater equality in the electoral contest. In that case its secrecy is well-advised, and one would expect that the first thing its opponents would do when in power is to make published balance sheets compulsory, as they are for each constituency election, where they frequently reveal a difference of three or four to one. Or a public enquiry into party funds might be instituted on the lines of the senatorial investigations carried out in America under the Franklin Roosevelt administration. There is little doubt that they would establish a case for stringent control aimed at a much closer approximation to electoral equality of opportunity.

But what has been seen of Labour finances has made it clear also that he who pays the piper is apt to call the tune. We have no right to assume that the same principle does not apply with at least equal force to the Conservatives. The question of what is the source of Tory funds can best be dealt with by stating some facts and asking some questions. Those who genuinely believe in the Conservative principles are likely to be no less ready than Socialists to express their loyalty by taking their share of the burden, but they can



much better afford to make their contributions weighty ones. Reference to the wealth represented in the Commons and Lords has already been made. If Labour could raise £6,000 before 1950 in this way, the Conservatives should have been able to find very much more than that sum.

The honours list has always been one of the acknowledged methods of evoking and rewarding political service, and financial help one of the ways of performing it. The Royal Commission on Honours of 1922 and the debates in the Lords of 1917 and 1922<sup>1</sup> adequately proved that a serious traffic in honours went on. Safeguards were established. A Privy Council committee was set up in 1923 to advise the Prime Minister by examining each case and giving him a report. It is probable that the action then taken and the publicity given has prevented the direct sale and purchase of honours, if indeed that ever took place. But the real traffic is much more subtle and this is inseparable from the granting of titles at all. A glance at any recent honours list with its file of wealthy nonentities is evidence enough. Besides, the view of such eminent Conservatives as the late Lord Curzon and Queen Victoria that the ownership and gift of wealth provide a case for a title corresponds to a genuine present attitude. When a man gives generously to a hospital he is often offered a title; if in addition he is constantly giving to party funds it will be still more difficult not to remember him when the time comes for distributing "recognition."

Then it is reasonable to ask certain questions. Is it not almost the duty of an industrial magnate to contribute to the success of a party which will increase the stability of his firm's position? He may get direct orders from the Government as a result, or protection from foreign competition, or even a subsidy greater than his original contribution. The connection between armament companies and nationalist Press and party propaganda was a well established fact in

<sup>1</sup> See W. I. Jennings, *Cabinet Government*, 1937, pp. 352-60.

inter-war France and Germany.<sup>1</sup> What right have we to think that conditions are different in England? If a brewer or distiller knows that the success of one party will cause a reduction in taxation on liquor, ought he not to give to the funds of that party? Having given, has he not the right to expect that a reduction will follow? Is there not behind his expectation an implicit threat to withdraw subscriptions? And cannot the party organisers go to him when a reduction has taken place and remind him of the advantages he has enjoyed? Clearly, there is a similarity of outlook and interest between the industrialist and the Conservative Party Organisation which is likely to express itself in a tangible form. Nor must we forget that the rich landowner must surely be ready to pay to prevent the valuation of land when this would facilitate taxation of the social increment, and might even prepare the way for a capital levy or land nationalisation. Truly the available resources are enormous, and the reasons for making big contributions very weighty indeed. They need not be hidden, for they are quite as justifiable from the Conservative point of view as the trade union contributions from theirs.

Money plays a part in the determination of results that no realistic study of the British political system can overlook. But if it has this importance on the national stage we must not forget to consider it in more direct relation to the business of elections in the constituencies. The bribery which flourished for so long after 1832 is to-day believed to have disappeared. What are the facts?

One authority tells us that after 1867 "indirect and disguised methods . . . continued, unabated, and with the passing of direct bribery, actually appeared to be increasing," adding that "the fear of eviction, or the hope of favours always determined the votes of the electors to a greater or less extent."<sup>2</sup> There has followed a series of further reforms,

<sup>1</sup> See *Patriotism Limited*, Loewenstein *L'Argent dans la politique*, Charques and Ewen, *Money and Politics*

<sup>2</sup> Seymour, *Electoral Reform in England and Wales*, pp. 419-20

the first being the institution of the secret ballot in 1872. But by this "corrupt influence was by no means banished

the borough electors were not liberated from the pressure exercised by employers and fellow-workmen; and the country voters followed the orders of the landed aristocracy in 1874 and 1880 as implicitly as they did in 1868."<sup>1</sup> It is true that in the towns aristocratic authority diminished, but it was replaced by the party associations through their organisation of the canvass, and the influence of the party's agent became fully as autocratic as that exercised through economic power by the landlord, the customer, or the employer.

The Corrupt Practices Act of 1883, which ushered in the next stage of reform, imposed considerable limitations on the permitted election expenses and created several new offences, particularly the exercise by threat of undue influence. But it left problems still unsolved. One of these, which is indeed insoluble while unemployment and great divergencies of wealth continue, is how to prevent the use of economic pressure and to make the undue influence clause effective.<sup>2</sup> Since the Ballot Act, however, interference of this kind has been successful rather in preventing people from actively and publicly assisting progressive propaganda than in affecting the record of their votes. The doubt whether the Act of 1883, was severe enough which Maitland early expressed<sup>3</sup> unfortunately proved well founded. The two main defects were, and still are, despite the Act of 1918, the difficulty of proving agency for expenses incurred, and the failure to deal with payments made before a dissolution "Individual corruption," wrote Ostrogorski in 1902,<sup>4</sup> "has

<sup>1</sup> *Ibid.*, p. 433.

<sup>2</sup> See for example reference to the regulations in this regard of Banks in my *Reactionary England*, 1936, p. 30.

<sup>3</sup> *Constitutional History* (1909 edition), p. 371.

<sup>4</sup> *Op. cit.*, pp. 477-82. "The candidate . . . quietly steps through the meshes of the Corrupt Practices Act and begins at an early stage to load the constituency with his favours. In addition to the, so to speak, obligatory subscriptions to local charities and others, which constitute 'nursing the constituency,' a good many candidates well

been succeeded to a great extent by wholesale corruption, so to speak, which the vast increase in the electorate has made well nigh imperative."

Even election expenses, which are too high, are hard to verify and, according to a Chairman of the Liberal Party,<sup>1</sup> are frequently falsified. There is no way of checking them except by trial after the election, and besides making the petitioner unpopular, this may cost at least £5 000. Finally, there was the use of motor-cars on election day which did not appear in the return of expenses. Here the numbers available to the Tory candidate often exceeded those available to Labour by about twenty five to one. They had a psychological effect which no advertising expert would underestimate. They were apt to be taken off the road just when the working man goes to vote after the day's labour is done. Their greatest importance was in rural areas where the polling booth is sometimes far from the voter's home, and where the voter was less willing to prevaricate as to the direction in which his vote was given. The Representation of the People Act of 1948 restricted the number of cars per candidate to one to every 2,500 voters in urban constituencies and one to every 1,500 in the counties, these cars to be registered with the Returning Officer. It is the practice in most continental countries to hold elections on Sundays, and it might well be adopted here.

We have seen something of the importance of money and position in the structure of parties and in the holding of elections. The theory which we apply to our representative system must take such conditions into account if it is to apply to realities, and not be content with forms. The gene-

supplied with the sinews of war, present their constituents in *spite* with a park or a museum, with land for building working men's clubs, or grounds for athletic sports, swimming baths, etc. The distribution of help in money by charitable persons has for a long time past been often made to serve party purposes especially in Tory circles; where an electoral following was secured by 'a judicious use of charities'."

<sup>1</sup> Ramsay Muir, *How Britain is Governed*, 1930, p. 144

sis of public opinion and of government belongs to this realm that lies behind the simple names of party and elections. There are other factors, however, in the tendencies of development that parties shew which centrally affect the representative process.

A party is a means to an end, but once formed it becomes also an end in itself. It gives positions with status or salaries or both. It canalises the activity of its most fervid members, giving them places of honour within its ranks, putting them on committees where they can discuss and feel important, offering them organising work to do. To leaders—and to its spokesmen generally—it provides audiences, and collects for them a disciplined army of followers. It accumulates funds and property. Realising that a strong and efficient machine is an instrument necessary for the achievement of their purposes, its members become—as soon as they have created it—so impressed by the beauty of the machine and so engrossed in the technical details of its working that the ends which alone justify its existence sometimes lose importance in their eyes. This is clearest in the case of a revolutionary party, for this seems, if it exists for any period of time, to be almost inevitably caught up in the social and political organisation which it is formed to alter, and tends "to modify its original profession of faith and to affirm itself revolutionary only 'in the best sense of the word,' that is to say, no longer on lines which interest the police, but only in theory and on paper"<sup>1</sup> Any move, however politically desirable it may be, however much it may stimulate the achievement of party policy, must be avoided if it shews signs of endangering the party machine. This is particularly important when we estimate the possibility that a progressive government will be prepared to dissolve Parliament before its time, for example in case of conflict with the House of Lords. Always it will have to listen to the views of the party bureaucracy, and one of the most insistent of these will be voiced by the party treasurer.

<sup>1</sup> R. Michels, *Political Parties*, 1915, p. 370

While increasing emphasis is laid on organisation and while the objective recedes into the distance, new members are sought by a progressive watering down of the principles upon which the party was formed, in order to make them more and more inoffensive. But their increasingly negative nature, if it attracts the mediocre, disillusiones the intelligent. There seems to be some truth in the claim of Ludwig Stein that "the intellectual growth of the socialist party is in inverse ratio to its geographical extension."<sup>1</sup> Always there is a tendency for the leaders, in close association with the conservative tendencies of the bureaucratic machine, and faced by the difficulties and dangers of change, to lay too great a stress on the importance of being in office and too little on the purposes for which office was obtained. From their position at the centre of power they are peculiarly well placed to prevail over the popular voice of their party. Thus there is nothing unusual in the scorn which Viscount Snowden expressed for *Labour and the Nation*, the document which put forward the policy upon which he obtained power in 1929. And there is an added difficulty here in the weakness that a class unaccustomed to govern seems to shew in the selection of leaders.

"It is said," wrote Ramsay MacDonald in 1911, "that the workmen have always suffered from dishonest leaders. That does not go to the root of the matter, and is misleading. The Chartist movement shows not the dishonest leader, but the wind-bag charlatan leader. The people have been sold but only after they have shown an incapacity to choose leaders."<sup>2</sup> There is often acute rivalry between the working-class leader who has worked his way up through the machine and shews the influence of its conservative tendencies, and the bourgeois leader who comes in from outside, shews perhaps greater ability and devotion to principle, but who because he is a threat to the established expectations of those

<sup>1</sup> Cited in Michels, *op cit*, p. 371.

<sup>2</sup> *The Socialist Movement*, p. 205.

in control of the machine is opposed, and generally defeated by the machine.

This raises the interesting question of the political capacity of the working-class, which has so often been mistaken in its choice of leaders, and in its methods of the achievement and use of power. That it lacks experience is obvious. Lenin, for instance, insisted on the need for education before economic power could be taken over.<sup>1</sup> While organisation in trade unions provides some measure of training in social relationships, the problems set are incomparably less complex than those of the State, and the knowledge required pertains more to the specialised experience of its members. The task which confronts the working-class—and that is to say democracy in its fullest sense—of organising a competent and reliable body of experts, of thinkers, strategists and leaders has too often shewn it at its weakest. It must know, and is no doubt in process of learning, what qualities to look for and what to avoid. It must be prepared to realise, at least in a period of transition to democracy, that its best servants may often be those who, coming from a more privileged social stratum than itself, may be trustworthy because they have sacrificed for their ideas, have less personally to gain from high position, have more the habits of leadership, and are less liable to the vanity with which the achievement of eminence is so often cursed. It still remains to be proved whether Montesquieu's belief that democracy knows how to choose leaders well is truer than Tocqueville's fear that it would choose badly. But even Tocqueville thought that it did not make a worse selection than other forms of government, that a popular choice was not worse than an autocratic one.

## V

Thus our study of parties seems to suggest that they profoundly modify the working of the representative principle.

<sup>1</sup> *The State and Revolution*

Money plays its part directly and indirectly. The party bureaucracy forms a vested interest which somewhat distorts political tendency in a conservative direction. It is apt to place too much stress on the value of maintaining positions and of continuing to work the machine. In a party of movement this tendency is most important, for the fear of offending *too often makes its attitude negative where constructiveness is the only justification for its existence.* It becomes involved in the very structure of society which it was formed to alter. The machine is constantly being taken to pieces and remade in preparation for a day that, with each remaking, recedes farther into the distance. Only the insistence of the public to whom it is responsible can overcome this constant tendency to misrepresent it or to slow down what inclinations there are for movement. That insistence can only find its expression in the proper selection as leaders of men for whom the machine will take its place as means and not end.

If the party of movement tends towards equation with the party of resistance, so it must be added does the obverse tendency apply. That is the reason why so many changes advocated by the former are habitually carried out after *their own fashion and in modified form by the latter.* For that reason also it has always shewn a greater adaptability to change, a smoother development than its opponents, and a greater continuity.

The party system is suited to a period of general agreement on basic principles of social organisation, and not to one where radical change is sought by a large element of the people. If there is not that conscious and direct conspiracy between the parties to cheat the people, which at least one romantic and exaggerated picture of their workings has portrayed,<sup>1</sup> and which many a citizen suspects, there is nevertheless enough of a tendency in that direction to provide a basis of truth. The Parliamentary system requires a very real measure of co-operation if it is to be satisfactorily

<sup>1</sup> Belloc and Chesterton, *The Party System*



worked; and it involves constant personal contact between the members of opposing parties. This makes for mutual respect, conduces towards a common psychology of power, a professional spirit which may conflict with the interests of those represented, and rubs off the harshest edges of difference. At the same time the need felt by the party bureaucracy to win over those among the supporters of the other side who stand nearest to them in political ideas makes for the same centripetal direction. All this has great value in producing compromise, in avoiding too violent friction. When there is enough unity on social purposes within society as a whole to make compromise an important objective the party system is admirably suited to the business of government. It is not worth fighting about details. Even at the expense of negatives and inactivities the spirit of compromise may be justified. But when there is fundamental difference at home, or where the danger of catastrophic conflict with other countries can only be met by widely divergent policies, the party system is apt merely to obscure the realities and to induce a false sense of security, a fool's paradise. When the people awakes to its betrayal it may turn with contempt not only from the party or parties which it believes has betrayed it, but from Parliamentary government as a whole.

There are, then, great, though not necessarily insuperable, obstacles in the way of rapid and fundamental change through the party system. Whether they in fact prove insuperable will depend in the last resort on the capacity of the leaders to keep the party machine in its place as an instrument and not an end, and therefore on the capacity of the ordinary citizen to choose his leaders. The direct contact between the Member of Parliament and those whom he represents is the best safeguard of their interests, and the less it is distorted by being canalised through the party machine the better will be his judgment, and the more probable will it be that the machine will be kept in its place.

The party system has proved most successful when, as

between Tories and Whigs in the eighteenth century, or Conservatives and Liberals in the nineteenth, there have been radical differences neither in political philosophy nor in economic significance. The first period began by the revolution of 1689, the second by what was nearly a revolution in 1832. The position after 1918 shewed graver differences in both respects, with one tendency towards the continuance of the hierarchical system politically and in industry, the other towards a classless society of political and social equality and democracy in industry. Whether the change can be achieved through the ordinary working of the party system depends on the considerations already put forward. The revolutionary economic and social effects of the war between 1939 and 1945, however, and the generally accepted changes that followed it have made this, at least, more probable. But once achieved, and a new unity having developed on the nature of social purposes, there will be a renewed need for the organising of divergent ideas as to the best method of working out those social purposes. In the measure that economic difference is reduced will the influence of money over the working out of ideas also be diminished, and material means become the servant instead of the master of our spiritual ends.

## Chapter VII

### THE ADMINISTRATION

THE Cabinet is normally linked with the administration by the presence within it of the heads of from sixteen to nineteen ministries. Many departments are now not directly represented, though a supervisory minister may speak for them, as the Defence Minister speaks for the Service departments; and the practice has grown of inviting ministers to Cabinet meetings when the business of their departments is being discussed. Non-political employees of the departments are controlled by the Civil Service Commission and the Treasury, which determine their appointment and remuneration, and they are known as the Civil Service.

But the departments, and the civil servants within them, do not perform the whole work of public administration. There are also certain other bodies, such as the Forestry, Charity, and Church Commissions, which have a Member of Parliament upon them to answer for them in the House of Commons, this representative being appointed by the Government. In addition we must to-day include a variety of boards, regulating or controlling special services, within the administration. And finally, local authorities, because they administer services under central direction and exercise powers centrally granted, must also be regarded as a part of the national administration.

Clearly, however, if the ministries are not the whole administration, they are far the most important part of it. Their functions may be said to be four. A department must answer for its administration to the public, or more exactly its officials must provide a brief for its Parliamentary spokesman to defend its actions in Parliament and on the public platform. Its policy must be framed, that is to say, with that necessity in mind, and so must be capable of articulate rational defence. The drawing up of its policy is its second function. It performs this both from its own administrative

experience and from the direction given to it by its political chief, the latter of course overriding the former where they conflict. Then thirdly, the bill has to be presented. Estimates must be prepared in advance to obtain the necessary sanction by Parliament for expenditure. Finally, policy having been determined, presented, and sanctioned, it must be applied. This may be done either directly or by giving orders to other bodies, such as local authorities or public boards. In the latter case the minister's authority is backed by the power of inspection, by the threat to withhold the Treasury grant in aid, and by the right in certain cases to suspend a local authority or to remove an official.

Cabinet approval must be obtained for any departure from previous policy. In practice this is important only where such departure is likely to have political significance or to arouse contention. Treasury approval is required for any change that will increase expenditure. The first may make consultation of the Prime Minister desirable, the second always means discussions at an early stage with a Treasury official, sometimes a special consultation between the minister and the Chancellor of the Exchequer, and if it involves conflict between them or an important departure from earlier policy it will have to be brought before the Cabinet for decision. Efficient Treasury control is vital to the proper ordering of the national budget, and it gives to the Chancellor a position second only to that of the Prime Minister in influencing the policy of the spending departments, if not of the Government as a whole. It seems to be exercised to-day with less departmental friction and antagonism than before the War, and this is due to the practice of consultations at an earlier stage than hitherto, and to the presence within each department of an establishment officer seconded from the Treasury to deal with all problems of staffing. Each department has also an accounting branch which maintains close relations with the Treasury.

## THE CIVIL SERVICE

The Civil Service is one of the two or three most distinctive features of the British system of government. The creation of a permanent, skilled, and non partisan body of officials which yet is subordinate to Parliament is, as Graham Wallas truly called it, "the one great political invention in nineteenth century England."<sup>1</sup> That body, to-day consisting of some 350,000 persons, employed in the administrative departments of the central government, is of very recent growth, and the principles upon which it is organised are only a century old. It is the chief section, but it is only a section, of the people who are employed by governmental authorities. When we speak of the Civil Service, it is true they are the officials of whom we are generally thinking. But the Civil Service also includes 400,000 industrial workers,<sup>2</sup> 200,000 "minor and manipulative officers", who are mostly employed in the Post Office, and 39,000 others, such as messengers, cleaners, making a total of about a million. Nor, if we are considering government as a whole, ought we to forget two further categories, the employees of local authorities, including schoolteachers, and of statutory boards controlling public enterprises. However, this would include employees of such organisations as the Coal Board and the Transport Commission, whose work is scarcely governmental in character.

The guiding principles of present Civil Service organisation are very simple and obvious. Yet they constituted a far reaching reform, hotly opposed, which was begun for one reason because, to quote Trevelyan, its joint author, "the revolutionary period of 1848 gave us a shake."<sup>3</sup> Put into operation during the twenty years which followed the Northcote Trevelyan report in 1853, which laid them down, they may be placed under three headings. a unified service,

<sup>1</sup> See H. Finer, *The British Civil Service*, 1937, p. 51.

<sup>2</sup> In shipyards, arsenals, engineers in the Post Office.

<sup>3</sup> *Parliamentary Papers*, 1875, vol. xxiii, p. 100, quoted by Finer, *op cit.*, p. 47.

recruitment by open competition, and the classification of posts into intellectual for policy and clerical for mechanical work, to be filled separately by separate examinations. The classification has grown more complex; an executive grade has been interposed between the administrative and the clerical; but the same general principles are accepted, although some deference has had to be paid to the objection made by the critics of the Report that the Civil Service "was a thing so heterogeneous in its nature that it required the application of special rites and principles suitable to its different parts."<sup>1</sup> Instead of the chaos of different departmental recruitments mainly by nepotism, there is a single system of appointment under Treasury control, and through an independent body, the Civil Service Commission.<sup>2</sup>

The policy forming or administrative grade was to be and is, drawn from those who have distinguished themselves by taking front rank as students at the universities. They were recruited in this way on the argument put forward by Macaulay and Jowett that a general training up to a comparatively late age is a better qualification for intellectual work than a special training, and that success in that training is likely to indicate desirable qualities of character. The minimum age for entry to the competitive examinations for this grade being twenty-two, clearly only those able to afford university education or to win scholarships are likely to reach it. That this would mean the additional advantage that the key administrative positions in the State would be filled by gentlemen only was a conscious consideration at the time. Gladstone, for instance, wrote farsightedly in 1854 "that one of the great recommendations of the change in my eyes would be its tendency to strengthen and multiply the ties between the higher classes and the possession of administrative power." It was, one might almost say, the conscious substitution of an ordered class nepotism for an

<sup>1</sup> Quoted by Smellie, *A Hundred Years of English Government*, 1937, p. 262.

<sup>2</sup> Set up in 1855.

unordered individual nepotism, in the expectation that simplification and greater efficiency would, as in fact they did, result from the change. Gladstone's was an accurate prevision for many years, but the widening of educational opportunity and increased promotion from the executive and clerical grades has modified the social structure of the Administrative Class to some degree. If we take 96 officials, mostly permanent and deputy-secretaries receiving salaries of £2,500 or over, in 1950, we find only 3 whose parents were persons of independent means and 2 sons of manufacturers. 16 were the sons of clergymen, 9 of schoolteachers, and 9 of civil servants below the Administrative Class. 9 more had fathers who were skilled manual workers, 5 fathers were in the retail trade, 4 were commercial travellers, 3 were solicitor's clerks and 4 had other minor clerkships. 24 of the remaining 32 were sons of people in the professions, such as solicitors, qualified engineers, accountants, university teachers, and Administrative and Professional Class civil servants. Of these same 96 officials, 20 had attended one of the twenty best boarding schools. 2 had been to Eton, 4 to Winchester, 3 each to St. Paul's, Merchant Taylors and Westminster, 2 to Rugby and 1 to Harrow. 38 had been to Oxford and 24 to Cambridge, 6 to London University and 5 to Edinburgh. 19 had never attended a University.<sup>1</sup> Though the main avenue to these posts still lies through the older universities, the security of the official's career makes it especially attractive to young men without hereditary advantages anxious to consolidate their educational success. This undoubtedly makes for a broader social basis for the Service whether it provides a more enterprising and imaginative outlook is another question. The Foreign Service is a special case, in 1943 reforms were instituted to provide a wider range of recruitment and experience by abolishing expensive study abroad before entry, and by unifying the

<sup>1</sup> The figures on which this paragraph is based were supplied by Mr R. K. Kelsall, whose study of the higher civil service in Great Britain is to be published shortly.

Foreign Office in London, the Diplomatic and the Consular Services.

The Administrative Class consists of about 3,000 officials with salaries ranging from £400 to £5,000. This is the body of civil servants that comes most directly into contact with the political heads of departments. It is their business to prepare the material from which decision on policy issues. In important matters that decision is taken by the minister; in other cases the administrative grade official himself decides. He is the channel through which the expert knowledge of specialists, or the views of interested parties, percolates to the minister. It is his duty to shew the alternative courses possible and their consequences. When the minister himself has an already clearly framed policy the official must work out the manner of its application. Clearly, therefore, this class of official is in the most influential and responsible position. In default of a ministerial policy it is his that counts. In any case his views are apt to modify the policies of even quite clear and determined ministers. It is highly necessary to harmonious administration that he should speak the same language and have the same general order of ideas as his political chiefs, that he should meet them socially, for it is often such informal meeting that provides the best basis for mutual understanding. This has been admirably secured in the past, but the advent of a different class of politician to office makes different qualifications desirable if the administration is to work with the same degree of efficiency. Already there is some evidence that the traditional manner may have a bad effect, either by overawing and causing administration without a proper political direction, or by producing an atmosphere of disharmony in which government cannot be efficiently carried on. If it was necessary in the nineteenth century that officials should have the same background and upbringing as ministers, so is it in the twentieth. Fortunately this difficulty shews signs of being mitigated by the development of progressive thought in the older universities and public schools, and there is little evidence of complaint by



ministers of intrigue or dishonesty on the part of officials. The constraint that developed between the Permanent Under-Secretary at the Foreign Office and Sir Edward Grey because of his government's policy in Ireland<sup>1</sup> is an exception. The disloyalty and conspiracy of officers inside and outside the War Office over the same issue applied only to that department, so far as we know, and then not to civilian officials.<sup>2</sup> But it is instructive that the system should have broken down even to this extent when the policy on which people felt most keenly before the war of 1914 was being put into effect. Though many great and far-reaching reforms have been carried through since 1945, the country has not been so bitterly or so irreconcilably divided as it was by the Home Rule issue. If such a deep division and such high passions should occur again, they might strain the administration more severely than in the past. But, apart from that, the importance of the actual organisation of the Civil Service, and especially of this grade within it, lies both in its influence on successive governments, and in its place as a piece of the machine which the Government must use to govern.

The other sections of the service are more numerous in personnel though of less political importance. They consist of the executive grade, of whom there are some 68,000, about 300,000 clerical officers and assistants, and typists, messengers, etc. From these lower grades to the administrative grade there is now considerable promotion. There is also occasional recruitment, at a mature age, from outside the service, and there are rare transfers from professional grades.

The only other class which calls for attention here is that known as the professional, scientific, and technical, and amounting to about 65,000, with the addition of some

<sup>1</sup> See W. I. Jennings *Cabinet Government*, p. 98.

<sup>2</sup> See below Chapter VIII and also Jennings *ibid*.

<sup>3</sup> B. Monck *How the Civil Service Works*. In these figures part-time civil servants are counted as  $\frac{1}{2}$  units. Some reduction was effected by the Conservative Government of 1951.

40,000 in subordinate posts. Among these are inspectors, solicitors, engineers, medical officers. Their importance in the service as a whole comes next to that of the first division. Having technical qualifications supplied by public bodies, they are recruited generally by advertisement and competitive interview.

The system of promotion through the service is based on two principles. These are, first, that normal annual increments of salary provide promotion by seniority. Also there is an annual report offering a basis for promotion by merit. To ensure fair treatment an officer is entitled to be notified of any adverse comment contained in a report and to defend himself.

Civil Servants are expected to show great restraint in political activity, though the more stringent recommendations of the Masterman Report<sup>1</sup> have been ignored. While it is probably inadvisable that a policy-making official should stand for or enter the House of Commons, where he might come into contact with the political chief with whom he is in confidential official contact,<sup>2</sup> there seems no reason why any other employee of the State should not be free to exercise his full rights as a citizen, even to the length of serving his country in Parliament, where such service does not interfere with his ordinary duties. Nor where it does so interfere is there any reason why he should not be given leave of absence without pay for the duration of his Parliamentary office, as is the practice with regard to some types of State employment in France. The contrary custom of penalising the State—or any other—employee by forcing him to resign his employment and abandon himself to the economic risk and insecurity of a political career is suitable only to a society governed by its propertied upper middle class, where alone the House of Commons can be fittingly composed only of the wealthy and of men who control their

<sup>1</sup> Cmd 7719 of 1949.

<sup>2</sup> The practice in Sweden however is different. Even the high official frequently enters Parliament. His liberty is not circumscribed, and no difficulty seems to result.

businesses or have free exercise of their professions. The professional politician should not be the only alternative to the upper middle class politician. Yet, not unnaturally, that is the direction in which we are moving

#### DELEGATED LEGISLATION

The functions of the departmental official are limited according to the constitutional theory to the application of law as previously determined by Parliament. Although he may be used by the minister to obtain the material on which a Bill is founded to advise on its nature and to draft it he is subject to the decision of the Cabinet to find Parliamentary time for it, and of Parliament to give it the sanction of law. State activity to-day, however, is on so extensive a scale and of so complicated and technical a character that "if Parliament were not willing to delegate law making power, Parliament would be unable to pass the kind and quantity of legislation which modern public opinion requires."<sup>1</sup>

Technicality and the need for elasticity and variation are the reasons why Parliament so frequently confers the power of making specific regulations, which shall have the force of law, on a minister. This is especially true of civil administration in this century, but it is also true of the army and navy and taxation in earlier times. This of course greatly magnifies the importance of the official. So far has the practice extended that while "the annual volume of public general statutes for 1920 occupied less than 600 pages; the two volumes of statutory rules and orders for the same period occupy about five times as many."<sup>2</sup> And the official in fact, though the minister in theory, draws them up. He is given great latitude by Parliament. Sometimes there is practically no appeal from his orders although in theory the official is as much subject to the law as any member of the public, and

<sup>1</sup> *Report of the Committee on Ministers' Powers*, 1932, Cmd 4060  
P. <sup>23</sup> *Ibid*, p. 16

although in any case the minister is responsible for his actions and can be called to account for them in Parliament. "We doubt," reported the committee set up to enquire into this much complained of development, "whether Parliament itself has fully realised how extensive the practice of delegation has become, or the extent to which it has surrendered its own functions in the process, or how easily the practice might be abused."<sup>1</sup> It proposed certain safeguards, such as more careful scrutiny by Parliament of the orders, which should always be submitted to it. It recommended more certain appeal from the official to the courts. And it anticipated legislation to provide for greater equality between the administrator and the subject in the courts.<sup>2</sup>

#### LOCAL GOVERNMENT

Until recently there was a general tendency for the powers and duties of local authorities to increase; since 1939, however, many of their functions have been transferred to national organisations. Yet their rôle is still far from negligible: of the total current expenditure on social services in 1950-1 of £1,520 millions, the local authorities spent £386 millions. The total annual expenditure of local authorities is over £800,000,000: their income from rates is over £280,000,000 and from central government grants over £300,000,000. In 1949-50 they spent over £330,000,000 on capital works, such as houses, schools and public utilities. Though they have lost control of health services and the old poor law has been abolished, they still administer the national educational system and are responsible for public housing projects.

Local authorities are a part of the national system of administration, and they call for consideration under that heading in respect to both the classes which constitute them as a working machine—the employed official and the elected councillor.

<sup>1</sup> *Report of the Committee on Ministers' Powers*, 1932, p. 24.

<sup>2</sup> *Ibid.*, p. 112.

*(a) The Official*

The first thing to be said about the various officials employed by local authorities is that "standards are uneven and no consistent effort is made by local authorities as a whole to secure the best persons for their service, and to make the best use of them."<sup>1</sup> In contrast with the State Civil Service there is no unified system or common method of recruitment, which accordingly varies from patronage and favouritism at one end to something like the level of Civil Service appointment at the other. In some of the bigger boroughs and counties practice is good, but elsewhere posts are given often enough to political adherents, relatives, or to the unemployed, and graft and inefficiency sometimes prevail. In response to the need increasingly felt for acknowledged standards and a suitable type of official some of the newer universities have begun in recent years a course of training which is steadily gaining recognition; but the system still leaves much to be desired. The many improvements recommended in the Hadow Report have yet to be implemented. To create a generally efficient service of a high quality much needs to be done, and no one is more anxious for the required reforms than the better local government officer himself, as the frequently expressed views of the National Association of Local Government Officers testify.

The local council works through committees—for education, housing, health, finance, libraries, children, etc.—to which it delegates its functions. These often have outside experts as co-opted members. To assist and advise the committee and carry out its decisions there is an official with the requisite subordinate staff. This, if we consider the national administration of that particular service as a whole—be it police, education, or any other service actively supervised by a central department—must be regarded as forming a local extension of that central department, acting in limited

<sup>1</sup> *The Report of the Departmental Committee on the Qualifications, Recruitment, Training and Promotion of Local Government Officers*, generally known as the Hadow Report.

independence This official stands in relation to the committee in much the same way as the permanent under-secretary in Whitehall does to the minister The way in which he is recruited is therefore of the first importance.

The Clerk of the Council is its chief general adviser; he has also certain statutory duties, such as the registration of electors, births, and marriages Mainly for this reason a lawyer is generally appointed He is not a chief officer with the duty of co-ordinating the whole service, nor does he control the appointment of all other officials This central co-ordination and control is lacking except in the very rare cases where the Clerk has such personality that he makes the position for himself This is probably the most serious defect in British local government, and there is much to be said for the argument that an administrator rather than a lawyer should be appointed Such an official should advise the council on all matters of policy, including the selection of its entire staff, having a general executive responsibility<sup>1</sup> As the Hadow Report said, "insistence on a legal education has the disadvantage that it excludes from the principal positions in local government persons of high administrative ability" It has the further demerit that only those who have been able to afford the initial costs of some £200 or £300 in becoming articled to a solicitor are able to reach these positions.

Similarly, the statutory requirement that the chief Medical Officer shall be a qualified doctor means that he must have been able to spend six years in a medical training which is in the main irrelevant to his administrative duties, and that his specialism in this direction is likely to have stifled his inventiveness and elasticity on the administrative side. It means, too, that only those enter administration who cannot make larger incomes as doctors. It results in an unnecessary restriction of the field. Equally important with the Medical Officer in the scope of his duties is the Education

<sup>1</sup> See the interesting case made by Sir Ernest Simon in *The British Civil Servant* (ed. W. Robson), 1937

Officer. He generally has varied teaching experience, has worked in a department, and is a university graduate. Mainly perhaps because the salary scales compare favourably with those of teaching, standards here are more satisfactory.

Such important positions as these are normally filled by open advertisement. There is considerable movement from one council to another. And for both these reasons it is fair to say, with the Hadow Committee, that "the local government service maintains a high standard." Much still needs to be done, however, to integrate the service both locally and nationally, to widen the sources from which it is drawn, to establish common standards, and to emphasise the administrative side of the required training. A national authority is required for this task.

#### (b) Councils

As has been said, administration is shared between central departments and some 1,600 elected county, borough, and district councils.<sup>1</sup> To these must be added certain *ad hoc* authorities and joint boards, such as the Metropolitan Water Board, and drainage, catchment, and burial boards. The powers and areas of councils are created and limited by statute, and vary from one type of council to another, some functions being permissive and others obligatory. They include the provision of magistrates' courts, schools, libraries, baths, certain health services, water-supply, drainage, fire service, police, housing, roads, children's homes, small holdings, and certain public enterprises such as restaurants, transport, and banking services. Councils levy rates, make bye laws and collect certain taxes—such as motor licences—on behalf of the Treasury.

The distinctive feature of this system is the fact of election, and the absence of any control by central government of the personnel of councils. They thus provide some measure of training in self government. Local officials of political

<sup>1</sup> There are also over 7 000 parish councils, having little importance

parties are often to be found sharing in the government of their localities, even though these return a member of the opposing party to Parliament. The principle is democratic. It is limited in two ways. The supervision of the work of councils by Whitehall, with the limitations set by statute and control exercised through the grants in aid, is a method already mentioned. Since the course of this control is itself set by Parliament, this, however, is hardly a true restriction. The second and real limitation derives from the nature of the system of local election.

The Ullswater Conference of Members of Parliament of all parties which met at the end of 1916, agreed that the electorate for local government purposes should consist solely of ratepayers. In consequence, until 1945 councils were elected by ratepayers and their wives or husbands, including the holders of unfurnished lodgings. The local government franchise was more restricted and less democratic than the Parliamentary franchise. Property frankly entered into its determination, long after it had ceased to affect the Parliamentary electorate. Youth was to a large extent excluded. In 1945 this position was altered. While the previous basis for the local government vote was retained, it was provided that all entitled to vote in Parliamentary elections should also be able to exercise the local government vote. The councillor must be an elector in the area governed by the council. The fact that councillors, like Members of Parliament, of the nineteenth century, are not paid still gives an advantage to the leisured and money classes, though compensation for loss of earnings and travel allowances are now payable.

A pre-war analysis of the personnel of councils, ninety-two borough councils having been taken as a sample, shewed that over 10 per cent. of the 3,105 councillors were, as builders, estate agents, etc., financially interested in urban development.<sup>1</sup> The consequent dangers of corruption are not

<sup>1</sup> Sir J. Marchant's letter in the *Times*, quoted by W. I. Jennings, *Corruption in the Public Service*, *Political Quarterly*, January 1938, p. 39.



without importance. Town councils are for the most part composed of the petite bourgeoisie, shopkeepers especially, while country and rural district councils have more marked professional and country gentry element.

#### BOARDS AND COMMISSIONS AS ADMINISTRATIVE BODIES

Two principles emerge from nineteenth-century experience as fundamental to the proper working of democratic administration. With the limitations set by the educational system open recruitment implies equal opportunity, *la carrière ouverte aux talents*, and therefore the highest standard of ability possible in the circumstances. Ministerial responsibility to Parliament for every act of every official provides the essential safeguard for an honest and efficient executive and for its proper subordination to public policy. We have already examined the application of these principles within the Civil Service

We have seen to what extent, after 1853, a single service with common standards was established from a welter of separately created boards and departments, each having its own system of employment, and of relations with Parliament. But even before those reforms the principle of responsibility was accepted as an axiom of political organisation. After 1853 co-ordination and reorganisation went on continuously, a series of commissions working out its methods. To the Playfair Commission of 1875, the Ridley Commission of 1884-90, the Macdonnell Commission of 1910-14, the Gladstone Committee of 1918, and the Tomlin Commission of 1929-31 we must refer for an account of the development and working of that single organisation. That it was a unified service operating under common principles and applying common standards was accepted as fundamental. Because the Post Office was already in existence in this period as a government department it was included in the operation of the national system, although it necessarily contained special classes of technical and industrial em

ployees. Indeed, new methods had to be invented to cope with the problems raised particularly by the department, both as a business and a profit making service. But the growth of State economic activity in the twentieth century has expressed itself in many forms. Some, like the War time Ministry of Supply, have followed similar lines to those of the Post Office. Others appear to be leading us back to the unco-ordinated mass of separately created boards, each with its own methods, that preceded the Northcote Trevelyan reforms. This haphazard growth is rapidly posing new problems, or re asserting old ones believed to have been solved by Civil Service organisation, and the need for new co-ordination is increasingly apparent. There are already more than a million employees of five such boards—the Port of London Authority, the Transport Commission, the B B C, the British Electricity Authority, and the Coal Board. And several other bodies exist with important functions, such as the National Assistance Board, the Airway Corporations, the Gas Council, the Bank of England, the National Savings Committee, the Forestry Commission, the Mersey Docks and Harbour Board, the University Grants Committee.

*The Mersey Docks and Harbour Board* was set up by Act of Parliament as early as 1857 to control the port of Liverpool. It owns and runs the docks, and is entrusted with the conservancy of the lower river as well as the control of the harbour. Of its 28 members, 24 are elected by the direct consumers, the dock ratepayers, and 4 are appointed by the Minister of Transport. The latter supervises its administration only to the point of fixing maximum charges, appointing a special auditor, and receiving an annual report. In imitation of this body the *Port of London Authority* was established on similar lines in 1908, although, unlike the former, the Chairman of this Board receives a salary.

*The Forestry Commission*, modelled on the Ecclesiastical and Charity Commissions, has a Chairman appointed by the Government, who is paid, and eight unpaid Commissioners.<sup>1</sup>

<sup>1</sup> Who may not be Members of Parliament

Parliamentary control is exercised through the Minister of Agriculture. The Commission was created in 1919 to plant and maintain State forests, and it owns a million and a half acres. It has powers of compulsory purchase, and of planting and carries out research and training, but is subject for its finances to the Treasury.

*The British Broadcasting Corporation* was established in 1926, the Charter being renewed in 1936, 1946, and 1951. Unlike many of the other boards directing socialised services, it is not saddled with debt resulting from heavy compensation to previous owners, and is thus freer to develop the broadcasting service of which it has a monopoly.<sup>1</sup> It has nine governors appointed by the Government, that is to say by the Postmaster General in consultation with the Prime Minister, but the number may be varied by Order in Council. A government department may require it to publish any matter. The Postmaster General has the power to forbid publication of any item, and he can also revoke the licence, under which the B.B.C. operates, in the event of its failure to fulfil its duties. He is responsible for its general policy, but not for details, and Parliamentary questions are in practice well nigh impossible. The Chairman receives £3,000, the Vice Chairman and two governors £1,000 each, and the other five governors £600.

*The British Electricity Authority* consists of a Chairman at £8,500 a year, two Deputy Chairmen at £5,000 each, and nine members, only one of whom serves full-time. Four of the members must be Chairmen of an Area Board (of which there are fourteen), and the Chairman of the North of Scotland Board is a member *ex-officio*. All the members of the Central Authority and of the Area Boards are appointed by the Minister of Fuel and Power. The function of the Central Authority is to generate electricity and to provide bulk supplies for the Area Board, who distribute these supplies to consumers. These are represented by a Consultative Council, consisting of 20-30 persons appointed by the Min-

<sup>1</sup> Apart from television

ister from local authorities and from industrial and other consumers of electricity. The Central Authority may issue stock up to £700 million at any one time.

The original *Transport Commission* of 1947 was a body designed to supervise and co-ordinate the services organised by a number of *Executives*, but its own activities became increasingly executive in character, and eventually all the subordinate authorities, except *London Transport*, were abolished. With the denationalisation of Road Haulage the Commission has become mainly a railway organisation, though it is also responsible for inland waterways, certain port facilities and such transport services "as it may appear expedient" for it to provide. The Commission has ten members, appointed by the Minister of Transport, of whom only the Chairman necessarily serves full time. It may issue *British Transport stock* to the value of £275 millions.

The *National Coal Board* was the instrument chosen by the Labour government to implement its long promised nationalization of the mining industry. It consists of a Chairman (at £7,500 a year), two Deputy Chairmen (£5,000 each), four full time members (£5,000) and five part time members (£500). Their tenure of office was fixed in 1946 at "not exceeding five years." No subordinate authorities were established by statute, but in fact the Board has organised ten divisional boards who control the various coalfields. The Minister of Fuel may give the Board "directions of a general character" about the exercise of its functions in matters affecting the national interest, and in matters of re-organisation, capital outlay, training, and research "the Board shall act on lines settled from time to time with the approval of the Minister." In addition the Board must furnish the Minister with information, returns, and accounts, and must publish an Annual Report. There are two Consumers' Councils, one for domestic consumers and one for industrial. These consider either on their own initiative or on the instigation of consumers or the Minister: and they report their conclusions to the Minister. The Minister may

make advances to the Board for capital expenditure, and the Board may borrow up to a limit of £10 million.

British civil aviation is in the hands of two Corporations, *British Overseas Airways* (founded in 1939) and *British European Airways* (1946). B.O.A.C. has a Chairman with a salary of £7,000, a Deputy Chairman, and one full time and seven part time members, all appointed by the Minister of Civil Aviation. It operates services on the Commonwealth, North and South Atlantic, and Far Eastern routes. B.E.A.C. has a Chairman (£5,000 per annum), a Deputy Chairman and five other members: and its operations are directed by a Chief Executive. B.O.A.C. may borrow up to £60 millions and B.E.A.C. up to £20 millions.

The nationalized Gas industry differs from the others in the greater measure of independence given to the twelve Area Boards. the *Gas Council* is really only a representative body for these independent Boards, which are themselves statutorily responsible for the manufacture and supply of gas. Their Chairmen constitute the Gas Council, with the addition of a Chairman and Deputy-Chairman. There is a Gas Consultative Council representative of consumers in each Area.

In addition to these corporations which control considerable industrial and commercial undertakings, there are many independent bodies charged with special functions. The *National Assistance Board* was established in 1948 to undertake relief formerly the responsibility of local authorities under the old Poor Law. It has a Chairman at £5,000 a year, a Deputy Chairman, and four other members, and controls a large regional organization. The *Department of Scientific and Industrial Research* is the Government's organisation for research into applied science. Controlled by the Lord President of the Council and a headquarters staff headed by a Secretary at £4,500 a year, it consists of the National Physical Laboratory at Teddington, the Geological Survey and twelve Research Boards. The *University Grants Committee* is a body with an absolute minimum of Govern-

ment control, for its members are chosen by the Universities themselves, though its function is to apportion among Universities money provided by the Treasury. The *National Parks Commission* of 1919 designates National Parks and—if they are approved by the Minister—exercises some general supervision over them. There are also administrative bodies of a regional rather than a centralized nature: *Regional Hospital Boards*, appointed by the Minister of Health, carry on the administration of non teaching hospitals in England and Wales; and *County Agricultural Executive Committees* provide a local organisation for the Ministry of Agriculture.<sup>1</sup>

These bodies call for remark in relation to the two general principles already laid down.

How far do we find, in the first place, that their responsibility to the public they are set up to serve is effectively organised? The public utility board is a mechanism consciously designed to insulate the administrator from detailed Parliamentary interference. It was thought that the need to be ready to defend his every daily action would cramp the initiative so essential to the running of an economic service. Too much energy would be devoted to forestalling criticism and too little to invention. Departure from precedent would be avoided where possible, rather than welcomed in an experimental mood, because it would require lengthy justification, and stagnation would be the result. That is the argument put at its highest. Behind it as its motive force there has always been the middle class business man's dislike of "political interference," by which he means the powers on the part of popular representatives or public officials to hold him to account for his activities. At the same time, it was clearly impossible to allow complete autonomy not subject at any stage to public criticism or political control. A solution was sought by organising semi independent bodies with ministerial responsibility for general policy instead of for each particular application. Contingent and

<sup>1</sup> The authorities named on these pages do not, of course, constitute an exhaustive list: there are many other quasi independent bodies.

occasional Parliamentary supervision replaced detailed day-to-day enquiry and criticism. But the methods have shewn extreme variation and no clear adhesion to principles.

There is some force in the argument for instituting a board in preference to a department on orthodox lines; but it can easily be exaggerated. Criticism and publicity may also spur on to achievement. Inventiveness may win praise instead of hostility. It is said that political criticism is ill-informed, but it should then be all the easier to deal with. Where improvement is needed and adverse comment justified, criticism and suggestion are preferable to silence. The controller of an economic monopoly is no less immune from complacency than the departmental official. Moreover, the Post Office, although wrapped in none of this newly invented cotton wool, is in many ways—and especially in the last few years—a model of efficiency. Experience of this service shews very clearly that the real problem in organising these utilities has not yet been fully appreciated. For it was not until there had been a certain relaxation of Treasury control that it began its recent improvements.

Relaxation, however, is negative, and as such it is typical of the methods applied. The truth is that a beginning has hardly yet been made in working out the positive principles which should govern the attitude of the State to socialised undertakings. Treasury control of expenditure, whether on staff remuneration or on development, may be far more stultifying than Parliamentary criticism, but in some form it is necessary. When criticism is organised and properly informed, as it might be expected to be if Parliamentary procedure were adapted through the creation of the specialised committees already suggested,<sup>1</sup> it might be valuably constructive. While criticism even of the present kind can be met by reason, there may be no answer to a Treasury refusal to pay for initiative or to see the possibilities of expansion. But even that is only to say that the ordering of State finance has not been adapted to the needs of an in-

<sup>1</sup> See above, *Chapter II*

creasingly State run economy. Treasury raids on money that could more profitably be used for developing the telephone system or increasing wages constantly hampered Post Office expansion. But they have not been restricted to a service which is departmentally organised. The Forestry Commission has suffered in the same way.<sup>1</sup> So, it is claimed by some, has the B B C. The old Central Electricity Board consciously avoided a Treasury guarantee for its loans out of fear of the effects of Treasury control, and it probably had to pay in higher interest rates for that freedom.<sup>2</sup> There is not yet in this country any conscious central planning of the finances of the socialised services by a percentage allocation of profits between such varying demands as expansion, payment of special initiative, technical education, the development of cognate industries, improving workers' conditions and Treasury needs, such as has been found necessary in Russia. The nearest approach to it is found in the provision contained in the Finance Act, 1933, whereby the Post Office was to make a fixed contribution to the Treasury, and to be at liberty to use the surplus for internal needs.

Nor is there as yet satisfactory co-ordination of utilities by a Minister of Economic Affairs, though the Ministry of Fuel and Power does perform that function for the industries under its supervision.

It must be pointed out that the arguments for semi-independence used here apply only to commissions which control public enterprises or regulate privately owned ones. But they were used by analogy to explain the creation of the Unemployment Assistance Board and the Unemployment Insurance Statutory Committee. This is hardly a comparable case, for here we have, not the control of a utility requiring initiative, but the administration according to principles of State policy of an insurance fund raised partly from general and partly from special taxation. It would seem to be a device for evading responsibility or imposing it on

<sup>1</sup> See J. Parker's Chapter III in *Public Enterprise*, also p. 384.

<sup>2</sup> *Ibid.*, Chapter V.



non-responsible paid officials. Inasmuch as the Committee could publish its recommendations, whereas a group of anonymous officials in the Ministry of Labour could not, it may strengthen the Minister where he agrees, but it will weaken his position, if not render it untenable, where he disagrees, while the responsibility for the decision is his and not theirs, although a weak Minister might be tempted to try to shift it. It is in fact an innovation which so far has worked, but it is an innovation in the experimental stage and as such should be carefully watched. We must not forget the excellent principle that the expert should be the servant of the community and not its master.

The actual means available, however, for securing Parliamentary control over the bodies running public utilities are by no means unimportant. There is in all cases an annual report. But it is not yet sufficiently secured that this report shall contain all the requisite information. Salary payments, for instance, should be listed as they are in the departments. There are certain opportunities for questions in Parliament, although this right is so severely restricted in some cases as to be practically valueless. In some cases instead of a Minister there is a Member of Parliament on the board to answer questions, but generally there is a statutory prohibition on the appointment of Members of Parliament, although not of politicians, to the board. There is usually a Minister who has a general responsibility, however difficult it may be to get him to acknowledge it in a particular case. With some boards, for example the B.B.C., the monopoly is subject to periodic review, when the charter comes up for renewal. Short of a co-ordinating Ministry of Production, whose vote would provide annual occasion for Parliamentary stocktaking, this periodic review should apply to all public utilities at least once in five years. Ministerial responsibility should be strengthened in all cases by giving the power of appointment and removal to the Minister.

No doubt it is largely due to defects in the organisation of responsibility that the second of our great principles—

open recruitment of the staff on Civil Services lines—has received impaired application by public utility boards. This weakness is also attributed to their haphazard development. Practice varies. Perhaps it is true that it is too early for final views,<sup>1</sup> but views on staffing are never final, and some general observations are necessary. Although in some cases, as, for instance, for some appointments under the Electricity Commissioners and the Unemployment Assistance Board, a Civil Service Commissioner was called in to assist, appointments are to a great extent made by private search and recommendation, despite all its obvious dangers. This appears to be true of a large proportion of the staff of British Electricity Authority, London Transport, the Port of London Authority, and the B.B.C. Sometimes appointment is made by advertisement and competitive interview. There is no objection to this when there are general technical standards. Grading on anything like Civil Service lines is the exception. It was applied, for example, under the Electricity Commission, but not under the Central Electricity Board. In London Transport there appear to be greater opportunities of promotion from the lowest posts to important ones than is usual in the Civil Service. Again, there is great variation in the treatment of staff representation. While there is provision in the case of the Labour Government's nationalisation measures for trade union consultation, there is scarcely anything comparable to the civil service Whitley system; nor is there direct representation on the boards of those employed. In some there is greater similarity, whether in the huge salaries paid to the highest officials or in the way of recruiting and promoting the lower staff, to methods of capitalist industry than to the Civil Service, and Mr. Attlee's reservation to the Ullswater Committee's Report on the B.B.C. may be quoted as generally applicable: "The general tendency is in the direction of autocracy and paternalism." Analysis of the personnel of

<sup>1</sup> H. Finer, *The Personnel of the Semi-Public Services*, in *The British Civil Servant*, 1937 (ed. W. A. Robson)

boards and of the directorates working under them would reveal very much the same social origin as in the case of high officials in the civil and armed services, and the Church, which as we have seen is in its turn similar to the Cabinet, the judiciary, the House of Lords, and the nineteenth-century House of Commons; but the social basis of the boards has widened in just the same way as that of other institutions, notably by the inclusion of a distinct Trade Union element.

## Chapter VIII

### THE ARMED FORCES

#### I

THAT early problem of democracy, the proper subordination of the military to the civil power, has perhaps been less difficult of solution in England than elsewhere. The protection afforded by the sea has enabled Parliament, without too much risk, to indulge its fear and suspicion of a standing army. But it took more than two centuries to work out adequate machinery for its control. A civil war and two revolutions in the seventeenth century were necessary to provide the rudiments of Parliamentary supervision. And, if the outcome does not seem now to have been much in doubt, there was nevertheless a long and bitter struggle in the middle of Victoria's reign to ensure its efficient subjection.

Curiously enough, those questions which are the first to be asked in the examination of any foreign political system are never put forward in a study of the British Constitution. Where does the army's real allegiance lie? How far can it be relied on by the civil government? Has it in any sense a politics of its own? The orthodox exposition in fact assumes that the problem no longer exists. Whereas in Germany or Spain the army has played an active part in domestic politics in recent years, and in France in times not quite so recent, in Britain it is taken for granted that the army merely obeys the lawfully constituted government whatever may be its political complexion. This assumption is possible partly because in the long absence of violent change the army's political attitude has hardly been tested. It is also a tribute to the quiet ability with which those who have so long controlled the general business of government have kept the chief army posts in their hands, and have imbued the army and navy with their own social ideas.

To reach the present position two periods of struggle have

been necessary. The first began with the war between Charles I and Parliament, continued through the military dictatorship of Cromwell, and through the few years of James II's effort to weld the standing army into an instrument of autocracy. The reaction on the part of Parliament took the form of a pronounced hostility to the principle of a standing army of any kind. This hostility became Whig tradition. "The raising or keeping a standing army within the kingdom in time of peace," stated the Declaration of Rights, "unless it be with consent of Parliament, is against the Law." It was very soon clear, however, that the voluntary militia was insufficient either for imperial or for home defence, and a compromise with necessity had to be found. Two measures provided it. The first of these, the Mutiny Act, passed in 1689 for six months and subsequently renewed annually, provided the legal foundation for discipline; without its yearly reimposition the army would become unlawful, and therefore its theoretic dependence upon Parliament was maintained. The second was the application by the first Parliament of William and Mary of the appropriation clause to military expenditure, by which detailed control was exercised over its organisation. But in its actual administration the army remained peculiarly the province of the Sovereign. The army was still the King's army under his supreme and sometimes active command. Although, along with other State activities, the doctrine of ministerial responsibility developed in military matters, it was not until the second half of Victoria's reign that this responsibility became more than a financial one.

It is true that there was a certain lapse of the royal prerogative in the eighteenth century, but with the appointment of his son, the Duke of York, as Commander-in-Chief in 1795, the King's personal control of the army was revived. The close association of the royal family with the army, if increasingly formal, has continued ever since. But from 1795 onwards the principle was accepted that the Commander-in-Chief was responsible to no one save the Sovereign in

matters of appointment, promotion and discipline. He was a power side by side with the Cabinet, and not dependent upon it except for money. Wellington regarded the Secretary-at-War as a financial clerk. The Commander was an executive and not a ministerial official, whom it was important to keep independent of the Government, and who had direct access to the Sovereign. Dundas and Hardinge, predecessor and successor of Wellington as Commander-in-Chief, thought that the Secretary was subordinate to the Commander: it was only in matters of finance that the Commander must refer to him. The Prince Consort wrote in 1852: "The Secretary-at War has no authority whatever except over money."<sup>1</sup>

The rivalry between the civil and military heads of the army reached its climax in the years after 1854. The Crimean War had revealed a condition of almost unbelievable inefficiency and unpreparedness. It was clearly imperative that something should be done to co-ordinate and reorganise the competing offices. But the movement for reform came from Parliament and from public opinion. Wellington had expressed his fears of any increase in the authority of politicians over the army, and dreaded the possibility of its subordination to the Commons in place of the Crown. His view was taken up by the Queen with the support of her circle of personal and military friends. Every proposal for change which might increase the influence of the Commons was represented as a threat to the prerogative. The Queen consistently opposed, for instance, the introduction of the Secretary into the Cabinet, and the consequent growth in his prestige and power. "The Secretary-at War ought properly to be left out of the Cabinet for the well working of the Army,"<sup>2</sup> she wrote in 1852 in direct contradiction of the Royal Commission of 1837. It is recorded that in this period "seventeen royal commissions, eighteen select committees, nineteen committees of officers within the War Office, be-

<sup>1</sup> *Letters of Queen Victoria, Series I, vol. ii, p. 476*

<sup>2</sup> *Letters, Series I, vol. ii, p. 514*

sides thirty-five committees of military officers, had considered points of policy in a period of twelve years."<sup>1</sup> But if that was true of the years when the Crimean War had already revealed the incredible confusion and inefficiency prevailing, it is equally true that despite the recommendations of the Commission of 1837 in favour of co-ordination under a Cabinet Minister, recommendations which were signed by five Cabinet Ministers and largely approved by Melbourne as Prime Minister, the opposition of the military chiefs and of the Court was successful in preventing action. "The outbreak of the Crimean War in 1854, seventeen years afterwards, found the army with the same departmental organisation that it had had at the time of the Battle of Waterloo, thirty nine years earlier."<sup>2</sup>

Of so little practical effect were the views of Ministers and Parliament that the unprecedented action was taken in 1855 of placing reservations on the power of the Secretary in the patent appointing him, the Commander-in Chief being given specifically all authority of discipline, command, appointment and promotion. The Select Committee on Military Organisation in 1860, however, considered these reservations to be inoperative, the Crown, and therefore its responsible advisers, being supreme.

In 1856, on the retirement of Lord Hardinge, the Commander-in Chief, the Queen's cousin, the Duke of Cambridge, replaced him as General Officer Commanding at the age of thirty-seven. He held this office until 1895, for the last eight years having the title of Commander-in Chief.

The formation of a Liberal Government as a result of the election of 1868 led to the first serious effort at reform. Gladstone made Cardwell, one of his ablest lieutenants, Secretary for War. In 1870 the War Office Act was passed, by which at last the civil and military departments of army administration were placed under one roof and one auth-

<sup>1</sup> Quoted from Clode, vol. II, p. 394, in Omond, *Parliament and the Army*, 1939, p. 106.

<sup>2</sup> Omond, *op cit*, p. 81.

ority. On June 4th an Order-in-Council was issued rendering the Commander-in-Chief finally subordinate to the Minister. Further changes were carried out by Cardwell to improve internal organisation, to establish a short time reserve, and to prevent the enlistment of criminals. The most important among these reforms was the abolition of the purchase and sale of commissions, a system which had long been defended by the Court and the military chiefs on the ground that it ensured that the officers would be "gentlemen and not unprincipled adventurers."<sup>1</sup> The opposition to Cardwell's reforms, difficult though it was to overcome, was greatly weakened by the rapid success in 1866 and again in 1870 of the highly trained Prussian army, and by the fears which resulted from the unfavourable comparisons with the British system. But when regarded in their total effect it is clear that these changes, hard fought though they were, did not alter the central features of the military system, or affect its social character.

The picture that we have of the army in the nineteenth century is of a body controlled and officered by royalty and the aristocracy. The militia, that reserve upon which Whig opinion was wont to rely to counterbalance the high Toryism of the regular army, was raised and commanded by the lords lieutenant of the counties with the help of other country gentlemen. The army itself was in fact in similar hands. Court influence was of great importance in its organisation and control. This was so partly because the Sovereign was its formal head, but mainly for more practical reasons. The Commander-in-Chief was, for the most part, a prince of the royal house, and in any case the Sovereign cultivated close personal relations with him, seeing him, corresponding with him, listening to his views on military appointments and organisation, adopting his advice and acting often enough as his instrument against the responsible advisers of the Crown. This meant, of course, that the whole direction of the army was one of extreme conservatism.

<sup>1</sup> Omond, *op cit*, pp 120-23



In 1900 it was possible for that keen and well-informed observer in Court and Government circles, Lord Esher, to write: "The Navy is a constitutional force. Every commission is signed by the Board. The Army is a royal force, and, while the Queen never interferes with the Navy, she interferes very much with the Army. As she listens to soldiers rather than to Ministers, the task of the Secretary of State for War is never easy. Hence the importance of a good understanding between the civil and military advisers of the Secretary of State. This has never been realised in my recollection, i.e. since 1882."<sup>1</sup>

The Queen was actively concerned at the close of her reign with the office and the pay of the Commander-in-Chief. "He ought not to be a head of a department," she wrote to Lord Salisbury, "but the Supreme Military Chief responsible to the Sovereign (the Head of the Army) for its *military*, as opposed to its *civil*, administration."<sup>2</sup> Lord Wolseley learns with satisfaction of the Queen's views, and prompts her to continue what is in fact his struggle as Commander in Chief to get his own authority increased.<sup>3</sup> The Queen repeatedly quotes Wolseley to the Prime Minister against the Secretary of State. At the same time we find her saying to the former,<sup>4</sup> "Lord Wolseley not being an entire success (as Commander), I felt the Army would prefer a Prince. Lord Salisbury said the feeling had all come round to that, and that he had told Lord Lansdowne Arthur (the Queen's younger son, the Duke of Connaught) would have the next appointment after Lord Wolseley." If the Queen was unsuccessful here in moving the Government to the course she and her army friends wanted, she met with better results when very soon afterwards she was urging an increase in the pay and pension of the Commander-in-Chief. The actual pay was £4,500 a year, and the pension £1,300,

<sup>1</sup> *Journals and Letters of Reginald, Viscount Esher, 1934*, vol. i, p. 269.

<sup>2</sup> *Letters, Series III*, vol. iii, p. 340.

<sup>3</sup> *Ibid.*, Series III, vol. iii, p. 344.

<sup>4</sup> *Ibid.*, Series III, vol. iii, p. 356.

but the Queen urged that the "pay of the Commander-in-Chief might be sufficiently raised to enable him to rent a house in London within convenient distance of the War Office and suitable for such a reasonable amount of entertaining as ought to be expected from the Military Head of the Army." The result, with which the Queen was not satisfied, was that the pay was raised by £550 and the pension by £700: it was at the same time pointed out that the retiring Commander-in-Chief had received £30,000 as gifts from the country for his campaigns.<sup>1</sup>

It seems to be a tradition that the Sovereign takes a particular interest in army appointments. Long after the official responsibility had been placed in the hands of the Secretary of State, Queen Victoria was accustomed to collaborate closely with the Commander whenever a promotion was to be made. We find the Duke of Cambridge recommending the appointment of a general to her on the ground that he is "active, a good rider, a perfect gentleman, an excellent soldier."<sup>2</sup> When Wolseley wants to secure his own future, to avoid the danger of committing "professional suicide" by being forced to accept an appointment in India, or when he wishes to stay at home in order "to prevent wild Secretaries of State from making changes destructive of all military efficiency," he does not hesitate to express himself frankly to the Queen, or to use his influence with her to win his way.<sup>3</sup> Yet the Queen is all the time quite convinced that "the dispensation of patronage . . . is done with the greatest impartiality, and that it is the greatest safeguard against the army becoming political and parliamentary."<sup>4</sup> It is to these Parliamentary influences that Lord Wolseley is referring when he writes to the Queen that "the foolish public prefer believing the tradesman who has become a politician to the

<sup>1</sup> *Letters*, Series III, vol. iii, pp. 628-29.

<sup>2</sup> *Ibid.*, Series III, vol. i, p. 571.

<sup>3</sup> *Ibid.*, Series III, vol. iii, p. 604. See also *Letters of Lord and Lady Wolseley*, edited by Sir George Arthur, 1923, pp. 82, 153, 154, 175, for relations with the Queen.

<sup>4</sup> *Letters*, Series III, vol. iii, p. 582.

gentleman who wears Your Majesty's uniform."<sup>1</sup> To which the Queen replies that "she fears some of the Government are very unpatriotic," and then, realising the implications of her remarks, she asks Lord Wolseley "to *destroy this letter*"

The Court in the nineteenth century was of great value to the army in preventing reduction and in urging increase in military expenditure. The Queen's attitude is in fact taken for granted. "Her Majesty is of course glad," we find the Private Secretary writing, "to hear of the proposed substantial increase in the Army."<sup>2</sup> This is at the end of her reign, but at its beginning we also find her writing to Lord Aberdeen urging him to increase the army, using a period of war fever to that end.<sup>3</sup> That attitude is indeed consistent throughout the century. Whether with good cause or with bad is not relevant to the point that it reveals the close identification of view and of interest between the army and the Court, which are thus seen to be, what in fact they remain, merely two different aspects of a single governing order.

The army has changed very slowly since then, despite the stimulus of two World Wars. Its strength in 1951 was about 426,000, with 170,000 reserves, including the Territorial Army. It now includes a strong National Service element. In 1937 it existed, according to the Secretary of State, to meet "the ever present need of retaining in England a force of a certain size, which may be required when and where we cannot say, but, of course, sufficiently strong and sufficiently well equipped to be despatched at a moment's notice to take on any adversary in any part of the world."<sup>4</sup> The army is not merely for home defence against a foreign invader or as a supplement to the police, but to contribute to the defence of the Commonwealth and of Western Europe and to maintain strategic bases throughout the world. The cost of the army, which was about £28 millions a year in

<sup>1</sup> *Letters*, Series II vol. III p. 632

<sup>2</sup> *Ibid.*, Series III, vol. III, p. 215

<sup>3</sup> *Ibid.*, Series I vol. III, p. 14

<sup>4</sup> Secretary of State, *Hansard*, 1937, vol. 321, col. 1890.

the decade preceding 1914, and about £85 millions in 1939, had become about £422 millions in the Army Vote of 1951-52.

Developments of importance have taken place in internal military organisation. The South African War had found the army almost as unprepared as the Crimean War.<sup>1</sup> There was no general staff and no expeditionary force. Haldane has left it on record that when he took office in 1905 "hardly a brigade could have been sent to the Continent without being recast."<sup>2</sup> But in 1901 the Committee of Imperial Defence was established, a Cabinet Committee of civilians and officers, presided over by the Prime Minister or the Secretary for War—and, after the creation of that office, by the Minister for the Co-ordination of Defence—to co-ordinate military and naval defence at home and of the Empire. This was superseded by the Ministry of Defence in 1946.<sup>3</sup> The Escher Committee reported in 1904, and two years later began the series of reforms undertaken by Haldane, the greatest War Secretary since Cardwell. Meanwhile, the Army Council had been established according to the Escher recommendations in place of the Commander-in-Chief. It resembles the Board of Admiralty, is under the chairmanship of the Secretary of State, and has four military and three Civil Service members, each with certain duties. Haldane modelled the new territorial army as a permanent reserve and in 1909 established, with the support of the Dominions, an Imperial General Staff. An Imperial Defence College was created in 1926.

But the essential social and political character of the army seems to have been unaffected. Haldane had to meet opposition from high quarters, but did not hesitate to remove "a distinguished general" who objected to his plans.<sup>4</sup> He was in the main successful, however, in carrying his officers with him, and so the old order remained. The full signifi-

<sup>1</sup> Haldane, *Autobiography* p. 137

<sup>2</sup> *Ibid.*, p. 188

<sup>3</sup> Cf. Cmd. 6913

<sup>4</sup> Haldane, *Autobiography*, p. 198

cance of this became manifest as soon as an acute constitutional crisis developed when Home Rule for Ireland, granted over the heads of the Lords, came into immediate prospect in 1914. Then, when the great majority of the upper class was violently opposed to the policy of the Government, the country came to see something of the importance of the fact that its army was recruited in such a way that officers were drawn exclusively from that upper class, as were its relations and friends. Sir Edward Carson's Ulster volunteers, equipped with German rifles, the first rebel army on British territory for a century and a half, were faced by a government which not unlike the Spanish Government of 1936, could not rely on its regular forces, and perhaps would be unable to deal with a mutiny within their ranks. Knowing that he would have such rebel support, the leader of the Conservative Party publicly advised the King to take the unconstitutional course of refusing to accept the Bill. George V at Balmoral in September 1913, speaking apparently from private information, said to Lord Esher, "I know that these people are well armed with the best rifles and millions of cartridges. It is expected that my troops will shoot them down. Not a single Irish officer but will throw up his commission. There is Hamilton in my own household who has signed the Covenant and who will leave me the moment the Bill is passed, and go to his people in Ireland. The Government pretend not to believe these things which are facts" They would be joined, it was equally clear, by many English officers. Where the King's sympathies lay was not in doubt. He carefully considered, and recapitulated to Lord Esher, "the whole argument for exercising his veto, and for insisting upon an appeal to the country even if it involved the loss of his ministers." Lord Esher argued on the other hand, although he later changed his mind, that such action would lead every Minister to attack him in public, and that "it was far better there should be fighting in Ireland than that they should involve the Monarchy in this quarrel."<sup>1</sup> But Bonar

<sup>1</sup> Lord Esher's *Memoirs*, *Sunday Times*, January 30, 1938

Law said there were "no lengths to which Ulster should go which he would not be ready to support."<sup>1</sup> He sent a message to Belfast that "whatever steps you may feel compelled to take, whether they are constitutional, or whether in the long run you are unconstitutional, you have the whole Unionist Party under my leadership behind you"<sup>2</sup> "I remember this," said Mr. Bonar Law in Dublin on November 28, 1913, "that King James had behind him the letter of the law as Mr. Asquith has now. . . . In order to carry out his despotic intention the King had the largest army that had ever been seen in England. What happened? There was no civil war. Why? Because his own army refused to fight for him."<sup>3</sup> Nor were the Conservative leaders making a mistake; they were aware of the ugly facts of power politics. If the army could not be relied on, the Government could not govern.

In addition to such incitement in public, a concentrated propaganda was brought to bear on officers in the circles where they moved. Those circles were, of course, open only to reactionary influences. "So many efforts were being made to seduce officers and men from their allegiance," reported the Adjutant General to the Secretary of State in December 1913, "that there was a real danger of indiscipline in the Army."<sup>4</sup> At the same time, within the War Office itself, and of course unknown to the Minister, disloyalty was being organised by Sir Henry Wilson, Director of Military Operations, in co-operation with Mr. Bonar Law. General Wilson wrote of his activities, not without pride in his *Diaries*<sup>5</sup>

The result of all this insubordination was the famous Curragh incident, in which a group of officers announced that they would not be prepared to obey certain orders. No action appears to have been taken against them. What was merely "an incident" might have been something much

<sup>1</sup> Spender and Asquith, *Life of Asquith* vol. II, p. 20

<sup>2</sup> Dangerfield *The Strange Death of Liberal England*, p. 118

<sup>3</sup> *Ibid.*, p. 131

<sup>4</sup> Spender and Asquith, vol. II, p. 41

<sup>5</sup> See Chapters VIII and IX

graver, but for the outbreak of war and the shelving of the issue. And we find that no personal disadvantages followed from these seditious activities. Sir Henry Wilson was to become the trusted Chief of Imperial General Staff from 1918 to 1922, and Mr. Bonar Law to become Prime Minister, both honoured Conservatives.

Sir Henry Wilson frequently met leaders of the Opposition to help them in the advocacy of policies different from those of the Government he was paid to serve. But he was not a unique case. General Sir John French communicated information and opinions to Mr. Balfour and Mr. Bonar Law in May 1915. These were also supplied to the *Times* and to Mr. Lloyd George, from whose *War Memoirs* it would appear that they played a material part in the overthrow of the Asquith government.<sup>1</sup>

What exactly are the modern relations of generals with the Sovereign and the Court it is not easy as yet to say, but we have no reason to assume that they have changed. French, for instance, was a friend of Lord Escher who held him in great esteem, and who used his influence with King Edward VII and others to get French's views accepted by the Secretary of State against those of the Army Council.<sup>2</sup> Haig frequently saw George V, who told him on one occasion that he had his complete confidence,<sup>3</sup> and on another was "very outspoken in his determination to support me through thick and thin."<sup>4</sup>

When we consider the method of recruitment of army officers, their pay, their social conditions, the reason for their markedly conservative attitude in politics becomes immediately apparent. That tradition which makes the army, along with the church, the aristocrat's profession in every feudal or hierachical society has also its significance in British democracy. Officers are drawn from the wealthy clas-

<sup>1</sup> *War Memoirs*, vol. 1, pp. 199-205.

<sup>2</sup> W. I. Jennings, *Cabinet Government*, 1937, citing the *Life of Lord Ypres*, p. 140.

<sup>3</sup> Duff Cooper, *Life of Haig*, vol. II, p. 63.

<sup>4</sup> *Ibid.*, vol. II, p. 73.

ses, soldiers from the poor. Lord Esher, indeed, laid down the two guiding principles of the British Army as: "1. It is officered on the voluntary system. 2. It is officered by a caste, with caste prejudices"<sup>1</sup> "In the past it largely depended for filling its ranks on those who were too uneducated and resourceless to find better paid employment; and while the officers were drawn from the other social extreme it was a family principle that the army was the vocation of those sons who were not likely to shine in any other profession. . . Its social tradition tends to make the British Army highly conservative."<sup>2</sup>

A regular commission is usually obtained after eighteen months' training at the Army College—Sandhurst and Woolwich being now combined to form a single organisation. A certain number of commissions are granted by direct entry from the Universities and from the Auxiliary Forces, but mainly officers are recruited from candidates who have served, in some way, in the ranks for a period. Entry to the Army College is at about 18½ to 19 years after a competitive examination with an interview. Fees have now been abolished and cadets attend as enlisted soldiers: their general military training is followed by technical training, if that is necessary, for the arm of the service they are to join.

Before 1939 about 70 per cent. of commissions were granted to candidates who had gone to Sandhurst or Woolwich straight from their public schools. They paid £300 a year with additional expenses, though reductions were made for the sons of officers, which largely accounted for the great number of these always to be found in the army. Another 15 per cent. of commissions used to go to graduates. The remaining 15 per cent. of commissions went to men who entered an army college as non-commissioned officers, on the nomination of their commanding officer, approved by the War Office, and whose expenses were paid by the State. A limit on the number of such promotions was removed in

<sup>1</sup> Esher, *op cit.*, vol. II, p. 129.

<sup>2</sup> Liddell Hart, *Europe in Arms*, 1937, p. 54.



1938, but they were still dependent on existing officers, who might be reluctant to take action lowering their social grade. Indeed it must be added that a considerable number of the promotees, if not a majority, were drawn from the same social grade as those who entered by other channels, as this means was used by them as a cheaper way of obtaining a commission.<sup>1</sup> It would be fair to say that, up to 1939, at least 90 per cent. of commissions, if not all, went to the class which had traditionally officered the British Army. Nor was it likely that, if any member of the working-class did ever get a commission, he retained much independence of mind after he had been dealt with by his commanding and fellow-officers. On the contrary the need for conformity to convention usually varies in inverse relation to the impeccability of social antecedents.

The pay of officers revealed a second reason for the pre-war state of affairs. It seemed to be regulated on the tacit assumption that anyone who had been able to afford preparation for the army must have had a private income on which he could rely to supplement his salary as an officer. In the debate on the Army Estimates of 1937, for instance, there was widespread agreement on all sides of the House, that pay, while it had increased since 1914, was below the necessary standard. This appeared to be due less to the smallness of its total than to the extravagant size of the mess, uniform and other charges then deducted. While an officer was expected to maintain a standard of living beyond the reach of his pay, the field from which he could be recruited was inevitably confined to the propertied classes.

Attention must also be drawn to a further difference between the method of recruiting officers and men, which again reveals the social conditions assumed. An officer is free to resign his commission at any time. He is, as Lord Esher said, a voluntary member of the force. He may resign, as in the Curragh incident, because he objects to the Government's policy. An ordinary soldier, on the other hand,

<sup>1</sup> Hansard, 1937, vol 321, col 1969

even though he is normally recruited while still a minor and unable in the eyes of the law to bind himself by contract, joins for six years. There is no escape save by the payment of a heavy fine, generally far beyond his means. However unsuited he may find himself to the conditions, however they may differ from what he was led to expect, he cannot go. While this leads to some cases of hardship and to others of insubordination in the effort to get dismissed it has the additional effect of preventing the recruitment of many independent minded men, and probably lowers the tone of the ranks.

Finally, the picture that we have of the top ranks of the army bears out our earlier impressions. Promotion seems to be so completely by seniority that even from 1914-18 strategy was under no one who had not forty years' experience of the military machine behind him.<sup>1</sup> And as for social distinction, that was even more marked here than in the lower ranks of officers. Everyone was a gentleman, whether it was shewn by public school education, by descent from the peerage, or by marriage with the daughters of baronets, officers, or men of property.

The Royal Army, then, still reflects the conditions of a pre-democratic period. We do not find a British general living like Foch on £600 a year, or that he is, like Joffre, the son of a cooper or upholsterer. The British Army is clearly a reliable force for the maintenance of internal order on the lines of the present social structure. Whether it can be relied on to obey a progressive government bringing about rapid and fundamental changes under popular mandate, or whether it is efficient, judged as a military machine, is more open to question. It has in normal times a high tradition of loyalty. There can be no doubt that army organisers can claim a fair measure of success in carrying out the aim once described in an army education manual as "To develop in the soldier, loyalty, morale, and *esprit de corps*, and a right understanding of the cause he has elected

<sup>1</sup> Liddell Hart, *op cit*, p. 164

to serve." His duty was to defend that British Empire which Sir Charles Lucas told him in the official handbook "it is at once the interest and the duty of all Englishmen, poor as well as rich, to maintain"—told him, moreover under the words of the psalmist: "The lot is fallen unto me in a fair ground; yea I have a goodly heritage."

## II

Conditions of recruitment in the navy and of social differentiation in most ways resemble those prevailing in the army although there is a more democratic tradition, and the ranks have a rather greater spirit of independence. Promotion from the lower deck, after being comparatively common in the eighteenth century, practically ceased in the nineteenth, but was revived in 1912. Mr. Churchill, speaking in the Commons on March 26, 1913, said "we regard promotion from the lower deck with possibilities of advancement to the highest ranks, as a permanent and essential feature in our naval system." Nevertheless, it cannot be regarded as playing a significant part in the recruitment of officers to-day or in the subsequent period as a whole. Between 1931 and 1936 the percentage of commissions granted to the lower deck declined in the executive and engineering branches from 10.9 to 3.3, and in the marines from 14.3 to 2.8.<sup>1</sup> But even if we take the period from 1912 the number so promoted has been very small, and for such an officer to reach the rank of captain is almost unknown.<sup>2</sup>

The remaining majority of officers were recruited in two ways—about two thirds from Dartmouth and one-third by special entry. The Dartmouth course took four years. It began at the age of thirteen and a half, which meant that the parent and not the boy chose the career. It used to cost, before 1939, approximately £778, the fees being reduced by a third for the sons of officers. The field was restricted, that is to say, to officers' sons and to those who could afford to

<sup>1</sup> See answer to question, Hansard for November 12, 1936.

<sup>2</sup> See an article in the *Times*, March 18, 1937

spend £100 a year for four years, and subsequently—since pay for some time barely covered expenses—to contribute further financial help. In 1953 it was decided to institute a scheme whereby all cadets would enter the Navy at 18, and hence to transform the College at Dartmouth from an institution giving general as well as naval education into a purely training establishment. It was hoped to attract 270 cadets yearly into the Navy by this method. There was to be no change in the method of selecting commissioned officers from the lower deck. Experience of this new system will show whether it still gives an advantage to those whose parents have been able to afford an expensive education, and whether the section of society from which entrants are recruited is still the same, but it will at least allow cadets to choose their career at a more mature age.

Air force recruitment to permanent commissions is through the R.A.F. College of Cranwell, the system having been modelled, it would seem, on the army colleges, and fees have been abolished in the same way, candidates being enlisted as airmen. Entrants are selected at 17½ to 19 by a Central Selection Board, with a written examination of General Certificate Ordinary level standard. Technical branches are recruited in other ways and there are also considerable opportunities of entry by means of the short-service commissions.

### III

The police system in England is a curiously complex structure, but it has been until recently a more democratic organization than the army. Before its development in the nineteenth century the preservation of the peace had been the responsibility of an elected constable and of the Justices of the Peace. The effect of the various Police Acts between 1829 and 1933 has been to continue the principle of local responsibility, except for the metropolitan area of London, but to provide also for central supervision. In the county

The police authority is the Standing Joint Committee. This combines the principles of representative government and of rule by the country gentry, for it is drawn half from the County Council and half from the Justices of the Peace in Quarter Sessions. In those boroughs which have police forces control is more democratic, being held by the Watch Committee of the Council. The local authority has general control of its police force, but it is subject in many ways to the central government. The Home Secretary can veto its appointment of a Chief Constable; he can hear appeals from a dismissed officer; and he issues regulations as to the pay and organization of the service. The Police Act of 1919 made it compulsory for local authorities to comply with these regulations. It also established, in response to current discontent in the force, an official trade union or service organization, the Police Federation, with a representative body, the Police Council, and imposed upon the Home Secretary the duty to consult it before issuing regulations.

The local authority receives a grant-in-aid from the Treasury of half the cost of its police service. This provides a further instrument of central control, for the grant is only paid after the Home Office Inspectors of Constabulary have given a certificate of efficiency. The Home Secretary also has powers in time of emergency to take over general control.

The Metropolitan Police is under the sole and direct authority of the central government, although the London County Council has to contribute its share of the cost.

One of the weaknesses has always been due to the fact that men willing to serve for many years as ordinary constables for a small wage have rarely been found suitable for promotion to the top rank. The consequent need to bring in from outside older men to fill the principal posts in turn discourages the ablest young men from entering a force where the prospects of promotion are thus reduced. Lord Trenchard's Hendon Police College, set up in 1933 and closed at the outbreak of war in 1939, was an attempt to

remedy this weakness by training a group of young recruits partly from inside and partly from outside the service. It was criticised, however, on the ground that it would develop an officer caste and further reduce the prospects of promotion for ordinary constables. The Police Federation, in particular, opposed the scheme as giving opportunities for favouritism, and there was a widespread feeling that it shewed a tendency to militarise the police.

On the advice mainly of senior police officials the Government set up a different National Police College in 1947, with the object of providing a training for older men from the middle and higher ranks of the police. It is normally open only to men above the rank of sergeant or to sergeants who have passed the examination for inspector. Those attending the six months' course have been, therefore, men in their middle thirties. The choice of recruits for the College is made by chief constables or police authorities on a quota system. It does not carry with it any guarantee of promotion.

Although a useful innovation it is open to two criticisms. In the first place the effective administration of the college appears to be almost entirely confined to police officers and the curriculum is mainly concerned with police organisation, practice and law. It should provide instead a wider opportunity for training. But that links with the second criticism, that the age of trainees is too high. For the College to be able to produce a really valuable impact on the minds of its members they would need more of an education in citizenship, public administration, social and economic history, social services and institutions, but for such study they need to be younger. The following admirable summary of the position is given by Mrs. Hart in her book, *"The British Police,"* p. 165.

"The Government have admitted that Hendon brought in good men who might otherwise not have joined the service, but they were not prepared to go against the wishes of the rank and file of the police, and indeed of the higher

officers. The rank and file are terrified of favouritism, which is perhaps inevitable in a system in which promotion is in the hands of the local chief or police authority and there is no one to whom an appeal can be made against their decision. It may have been a wise short-term policy not to have risked causing considerable discontent in the police, but as a long-term policy it would undoubtedly have been better to have adopted a scheme which would have given able policemen a chance of promotion far earlier and quicker than they have now. Apart from anything else this should have helped to attract good recruits to the service. At present, for instance, practically no university graduate ever thinks of joining the police; but the service undoubtedly needs the trained minds of some graduates. It is not suggested here that policemen should not start at the bottom and spend a few years on practical police work: this is desirable (though the case for it is by no means as clear as many policemen think), if only because the work at the bottom is so very different from the work at the top, which is not so in some occupations, but it is suggested that brilliant men will not enter, or if they enter remain in, the service unless their prospects are greatly improved."

## Chapter IX

### THE ADMINISTRATION OF JUSTICE

WERE the function of the judge confined to the mere application of laws which the legislature had previously defined in lucid detail, foreseeing all possible future contingencies, the political scientist would be concerned only to argue that he should be sufficiently independent and capable to execute the law without fear or favour. This, it is true, is a large part of his task, but it is not all. He must be relied on to interpret the law according to the intentions of the law-maker. In the judicial process he builds up the laws, adds, fills in gaps, selecting between precedents when the intention is not clear, sometimes even interpreting the intentions away. In this process the social philosophy of the judge becomes, in the same way as that of the legislator, although generally in far subordinate degree, the foundation of the law. Clearly, therefore, the characteristics of the judge and of his social philosophy are not without their bearing on the nature of the political system.

"The legislature," says Mr. Claud Mullins, "has been content to let the judges create the bulk of our private law,"<sup>1</sup> and it is true that in this field more has generally been left to the responsibility of the judiciary than elsewhere. If generally Parliament's deficiency has been supplied by individual cases testing judicial opinion, the ordinary citizen has had to pay heavily for the privilege of so establishing the law for the rest of the community. The standards to which judges must refer, the limits that are set to the area of their discretion, have been discussed widely in recent years. But, after defining these restrictions at length in his classic study, *The Nature of the Judicial Process*, Mr. Justice Cardozo is quite right to exclaim, "Wide enough in all conscience is the field of discretion that remains"<sup>2</sup> Within this field the

<sup>1</sup> *In Quest of Justice*, 1921, pp. 43, 44.

<sup>2</sup> 1931, p. 141.



judge can only refer to reason and precedent, and since precedent is established by other judges and may vary, it is ultimately from his own or from their ideas of social justice that he in fact draws his authority. The conclusion to which he comes will be sincerely arrived at, no doubt, and will certainly be expressed in as objective terms as possible. But in fact it will be largely the enactment of subjective judgments. Clearly therefore, it is highly necessary to the State that the judiciary should have broadly the same social philosophy as those who make the law and govern the country. The law, in other words, must be interpreted in the spirit in which it is made. Friction between the principles of statutory and judge made law must not be allowed to subsist.

That is not to say that we can compare legislature and judiciary on any basis of equality of right as law-making bodies. The judge is in the last resort the servant of the majority in the law-making body in the English political system. It is not enough when comparing them to say with Mr. Cardozo, "There is no assurance that the rule of the majority will be the expression of perfect reason when embodied in constitution or in statute. We ought not to expect more of it when embodied in the judgments of the courts."<sup>1</sup> Such a statement might be taken to elevate the judge to a wholly improper sphere of equality with the legislator. But statute has an altogether different sanctity from judicial decision. If we are dissatisfied with the "perfect reason" of the majority that dictated it, our appeal should be not to the judge to twist it, but to the majority to change it. England, as Disraeli said, is not governed by logic; she is governed by Parliament.

To no one familiar with the history of the Supreme Court in the United States of America is it necessary to argue that political views colour judicial decisions. He knows that the Court can generally be divided into a conservative and a progressive group, each corresponding normally to that

<sup>1</sup> *Op cit.*, p. 177

of the President who nominated them. He knows, too, that there is often sufficient statecraft in that judicial body to make it stretch the interpretation of its principles when electoral returns show that it might be politically unwise to apply them. If he suspected this before—after, for example, the Electoral Commission Case of 1877<sup>1</sup> had shown a straightforward party division within the Court—the experience of the New Deal legislation, where it was always possible to forecast nearly every judge's decision on the same basis, must have completely confirmed him in that view. In the international sphere, the Hague Court's decision in the *Anschluss* case revealed exactly the same condition. Awareness of this fact made those who were responsible for framing the Constitution of the Spanish republic in 1931 provide for the election of the members of the Court of Constitutional Guarantees by a variety of differently representative bodies.<sup>2</sup> The absence of a written Constitution overriding all other law has meant a less overwhelming significance of the courts in the English than in the American system, but governments have on the whole been careful to appoint judges from their own parties, and other more general safeguards upon the social attitude of judges exist, as will be seen below.

In Britain itself the judiciary has not infrequently exceeded its proper functions. By reference to its own principles it has been able sometimes seriously to modify the principles of public policy even when these have been clearly enunciated by the Government and accepted by the Commons in proper statutory form. "Sir Frederick Pollock has said that many judicial opinions are unintelligible save upon the assumption that the judges did not like the effect of the legislation they were asked to interpret, and did their best to construe it away."<sup>3</sup> This has been and is especially true of law relating to the improvement of working-class

<sup>1</sup> See F. H. Judson, *The Judiciary and the People*, 1913, p. 197.

<sup>2</sup> See my *The Spanish Constitution*, 1933, pp. 39 et seq.

<sup>3</sup> H. J. Laski, "The Judicial Function," in *Politics*, 1936, p. 122.

conditions, especially when it imposes obligations on the employer. One of the most patent examples of this is the failure of the courts to understand or to accept the idea of workmen's compensation.<sup>1</sup> "No one can read Judge Parry's admirable analysis of the decisions," as Professor Laski said, "without seeing that, especially, the Court of Appeal was seeking deliberately to whittle down its consequences to a minimum in order to protect a social interest which, as it thought, had been unfairly invaded. I do not doubt the sincerity of the Court of Appeal;" he added, "I only ask you to note the way in which its prejudices triumphed over the plain intent of statute"<sup>2</sup> There are, of course, many other examples. The Osborne judgment and the judicial invention of the doctrine of common employment were eventually reversed by legislation, but in the meanwhile they imposed barriers to working-class liberties no less effective than if a responsible government had decided to command them. The general trend of such interpretation has been, with perfect sincerity, in a single direction conservative of the economic and social structure accepted as desirable during the judge's formative years and in the circles in which he moves. Nor is he in any sense corrupt. The honour and honesty of the British Bench is one of the great achievements of British judicial administration.

Nor is there anything in these facts the least surprising. Judges are recruited exclusively from one social class. It is inevitable that, with notable exceptions, their ideas should be the ideas of their class. That does not imply in them any insincerity. Above all, they will feel it their duty to defend the interests of the social order to which they belong, and in which they believe, when they fear that those interests are threatened. In time of emergency, when the latent conflict between alternative social orders comes to the surface, they will find their moment of greatest responsibility; they will exercise their responsibility in complete honesty of

<sup>1</sup> Sir E. Parry *The Gospel and the Law*, 1928, pp. 118, *et seq.*

<sup>2</sup> H. J. Laski, *Justice and the Law*, 1930, p. 7.

purpose to the maximum limits of their authority. They can always be overruled by a determined Parliament, and there are severe limits set to them by their own professional traditions. But the tendency of their interpretation is not likely to be in doubt. They will defend the order to which they belong. Some figures were given by Professor Hilton in 1937 which left no doubt that their social stratum was the same as that of a Conservative Cabinet, house of bishops, or board of bank directors.<sup>1</sup> "Of 156 county court judges, recorders, etc.," he pointed out, "122 are public schoolites."

No one who follows the working of the courts can fail to see that some distinction is made between classes, and between those holding conservative and reformist—especially when they can be called "extremist," i.e. extremely left-wing—attitudes. The application by the courts of the law of libel is mentioned later.<sup>2</sup> Especially evident is this tendency in the police court.<sup>3</sup> But it is by no means confined to these. "I do not state it as any new discovery," wrote Judge Parry, "but it has gradually impressed itself upon my mind during 33 years' service in the County Court, that all our laws and the procedure by which we administer them are defective in relation to the poor, because . . . their authors cannot break away from old superstitious uses, and close for ever those volumes of laws that were made in days when liberty, equality, and fraternity were words of anarchy and rebellion." And he further, rather unkindly adds, of his profession, "the lawyer has the herd instinct strongly developed. For generations he has congregated by himself in his Inns of Court, he has feasted in a herd, gone to church in a herd, and preyed on his fellow men in a herd. He is to-day probably a more compact and powerful herd than the priest, the doctor, or the politician. The lawyer herd has

<sup>1</sup> From an address reported in the *Manchester Guardian*, August 5, 1937. See also, M. Ginsberg, *Studies in Sociology*, H. J. Laski, *Personnel of the Cabinet*, and, for banks, my *Reactionary England*, pp. 29, 30.

<sup>2</sup> See Chapter XII.

<sup>3</sup> I have discussed this in *Freedom and the Police*, chapter 1, in my *Reactionary England*.

always resented reform, from the common desire of mankind for self preservation and abundant food-supply."<sup>1</sup>

Theoretically all are equal in the eyes of the law, and it is the proud boast of those who in the orthodox manner laud the virtues of British democracy that a poor man and a rich man have the same prospects of justice. Nothing, in practice, is further from the truth. Justice in England is not a state service freely available for all, but a lucrative business—judge apart—the monopoly of which is in the hands of a high organised profession with expensive entry fees. The State has left in the hands of the lawyer its responsibility for ensuring that justice shall not be a commodity available only to those who can afford to pay heavily. There is a public prosecutor, but no public defender. A certain measure of charity, it is true, has been worked out for the benefit of the very poor, but there has been no attempt to develop a scheme even of graduated payment according to means. The chief objection to both the dock brief and the Poor Persons Defence Act is in the view of those most experienced in its results, that the aid provided comes too late and is not given as a matter of right.<sup>2</sup> It would seem obvious that legal assistance is essential to the citizen who becomes involved in litigation.<sup>3</sup> If not, what is the use of the legal profession? But in order to secure it he must first obtain the lawyers' certificate that he is penniless, and he must rely on the charity and public spirit of some solicitor and barrister who will get no payment for their pains. That there are men of this type is certainly the only reason why the legal profession has been able as a whole to continue in the enjoyments of its monopoly, for were there not some such safety-valve for the national conscience reform would long ago have taken place. So far, reform has only scratched the surface of the problem. It is largely true that to resort to the

<sup>1</sup> *Op cit.*, pp. 20 and 31

<sup>2</sup> See F C G Gurney-Champion, *Justice and the Poor in England*, 1926, p. 134

<sup>3</sup> Yet the report of the Committee on Legal Aid for the Poor (1928) asserts that this is not true.

courts without fear of ruin the citizen must be either penniless or a millionaire,<sup>1</sup> and that if he is to hope for success he should choose to be the latter. Of the High Court in particular it is clear that "the unfortunate litigant who is neither rich nor so poor as to qualify for aid as a poor person may risk everything when the machinery of the law is set in motion for or against him . . . and many cases are settled, perhaps on terms unfair to the weaker party, which under a reformed system might be equitably tried out before the courts."<sup>2</sup>

That the judge should be free from interference by the executive has been an axiom of political science at least since the end of the seventeenth century. The independence of the judiciary is a principle of the British Constitution. The judge's pay is charged to the consolidated fund, he cannot be removed from office save by the exceptional procedure of a resolution passed by both Houses of Parliament, and in practice he never is removed. Yet his appointment is a part of the patronage of the Prime Minister in the case of the highest positions, of the Lord Chancellor in the case of county court judges and local magistrates, and of the Home Secretary for magistrates in London and other towns. These political officers pay tribute to his importance by ensuring that as far as possible appointments shall go to lawyers of their own party. By convention, moreover, the law officers of the Crown, who are lawyer-politicians in the Government have the first refusal of certain offices. "In the last hundred years out of every three lawyers who have been appointed to the Bench two had been members of the House of Commons before appointment. The men, in short, who shape the essential outlines of the law in England are men who share political prepossessions which are, in their fundamental contours, the same. The uniformity of their outlook comes from the simple fact that, had they wide differences of view about matters of fundamental social constitution,

<sup>1</sup> See Claud Mullins, *op cit*, also Parry, *op cit*, pp 266, *et seq*

<sup>2</sup> *Political Quarterly*, 1933, p 162.

they would not have reached the Bench."<sup>1</sup> It is interesting evidence of the strength of the professional spirit among lawyers that nevertheless judicial independence has remained so much of a reality. Perhaps the reason is partly to be sought in other things. There is the immense conservatism of their vocational organisation. There has also for a long time been that coincidence of upbringing, outlook, and social origin between the members of the two chief political parties in Parliament on the one hand, and the professions and the higher officials of the civil and military services on the other, which characterises the British system. The judiciary, and the legal profession generally, consists of expensively educated gentlemen; they have dealt, in the course of practising at the bar, solely with men able to afford the high expenses of litigation; and they believe in property and the economic and social order which has employed them. There is no reason, therefore, why even if they are appointed by politicians and look for their promotion to politicians, and if they are even politicians themselves, their political and social attitude as expressed in their decisions should lead them as a body, or even individually, into that type of conflict with the Government which is likely to endanger their independence, provided only that the Government consists of the same type of persons and applies the principles of their political philosophy.

The system of legal administration in which they operate is, moreover, peculiarly conservative and antiquated. It has escaped the reform which overtook both the Civil Service and the courts in the second half of the nineteenth century. It has been well described as "an astonishing welter of different departments and controls, the existence of which it is difficult to justify in the twentieth century."<sup>2</sup> Legal reform is the responsibility of no one. In one aspect of legal admin-

<sup>1</sup> H. J. Laski, "The Judicial Function," *Politics* 1936, p. 125, also his *Studies in Law and Politics*, 1933, pp. 163 *et seq.*

<sup>2</sup> *A Ministry of Justice*, by a Committee of the Haldane Club, 1933, p. 15, also for a description and defence, Schuster, in *Politics*, 1937.

istration the authority may be the Lord Chancellor, in another it may be the Home Secretary, the Attorney General, or even the Prime Minister. But the Lord Chancellor is not answerable in Parliament, having no representative in the House of Commons. And several departments, some of them of considerable importance, are without ministerial or Parliamentary supervision. There is, for instance, despite its Parliamentary member, the Charity Commission, to which appointments are by patronage, and which was severely criticised by the last Royal Commission on the Civil Service. Or there are the Masters in the Queen's Bench and Chancery Divisions, the former being appointed by the Master of the Rolls and the Lord Chief Justice in rotation on a system of patronage descended from the eighteenth century, which was revealed in 1915 to have produced a situation in which seven out of the nine holders of these positions worth up to £1,500 a year were near relatives of judges. It is interesting further evidence of the strength and conservatism of the legal profession that a Ministry of Justice, so clearly needed and so strongly advocated for more than a century, should not yet have been created. Lord Brougham at the beginning and Lord Haldane at the end of that period both actively demanded this reform. Lord Bryce approved it. It was supported by some of the Commissioners who were responsible for the Judicature Act. Both the Commission on Legal Departments in its majority report of 1874 and the Machinery of Government Committee of 1917-18 favoured its creation. Such a Ministry is needed first to clean up the chaos of unco-ordinated departments and uncontrolled offices. It is required secondly to provide that in legal administration, as in the other branches of the State service, there shall be that full answerability to Parliament, and through Parliament to public opinion, which provides the means for public principle to be applied in administrative action. But above all a Ministry of Justice is called for so that there can be a complete overhaul of the legal monopoly with its exclusive rules of entry, and its expensive and antiquated educational



system. Of this it is further true as Professor Smellie remarks, that "it is a paradox that among the people who are the most law abiding in the world there should be the least general knowledge of the nature and principles of the law."<sup>1</sup> And finally a Ministry of Justice is called for so that at last someone with the time to do it shall be responsible for looking at the body of law as a whole, and able to co-ordinate, to simplify, to bring it up to date, to see that the principle of equality before the law, so proudly asserted, shall come nearer to realisation. Without such a development it is clearly impossible for the breath of true democracy to animate the body of British justice.

<sup>1</sup> *A Hundred Years of English Government*, 1937. p. 418.

## Chapter X

### THE CHURCH

#### I

RELIGION from primitive times has been accepted as necessary to the maintenance of civil order. In the past, when a rational justification of authority was lacking, a supernatural one had to be found. In more recent times the existence of a divine law backed by the sanctions of hell fire has still been regarded as an essential support of the secular power. Without such fear of suffering after death it has been believed that obedience to law here and now would not be forthcoming. That link between the church and the defence of the political *status quo* has long been maintained. While, under the influence of utilitarianism, the older philosophy has been on the decline, other arguments in favour of the church have been heard that endeavour to meet the rationalist on his own ground. The parish priest, it is suggested, provides a nucleus of culture, he is the emissary of "the foremost files of time" in the backward village, he brings the intellectual atmosphere of the university and the superior social standards of the upper class among the uneducated and the unpolished. He is a leader whose services are necessary both in preserving social standards in this world and in preparing, by the inculcation of a higher scale of values, for the next. As such he is the valuable servant of the state as well as the church. In that capacity he is an institution both of charity and of order. While the policeman has the comparatively crude function of arresting the criminal when crime is actually committed, the clergyman's task is the infinitely more delicate one of creating an atmosphere which will stifle the impulse, which may lead to crime, before it is born.

The Church of England, ever since the conversion of King Ethelbert of Kent, has been an established part of the sys-

tem of government. There has been an established church as long as there has been a kingdom of England. Before the separation from Rome, it is true, it owed an external as well as an internal allegiance, but since then the head of the State has been also head of the church. From the beginning the authorities of the church played a part in the government of the State, both legislative and executive, which made their subordination necessary to the royal power. There is not room for two sovereigns in the State. Appreciation of this made the secular rulers increasingly insistent on their participation in ecclesiastical control. If the establishment remained, it stayed largely as an instrument of the lay power. There has never been that revolution in England which elsewhere has expressed the doctrines of rationalism in the disestablishment of the church and the freeing of religious organisation from worldly privilege and power. Although its importance may have diminished somewhat since the Victorian era, the church still remains an organ both of society and of the State, enjoying place and influence, and emitting a continuous stream of education and propaganda. If this is to-day of less direct political importance, its underlying effects, social and political, cannot be discounted. Nor does the church retain its position because its doctrines are to-day believed to have absolute truth, or because of the universality of its membership. The fact that a different church with different tenets is established in Scotland removes the former possibility; the fact that, as a Bishop of Durham has reckoned, "it may be doubted whether more than one in thirteen of the Parliamentary electors is a communicant Anglican,"<sup>1</sup> removes the second.

The continuing connection between church and State is shown in a variety of ways. Parliament, although it includes the representatives of Scotland, Wales, and Northern Ireland, and of many creeds as well as none, still has supreme control over the church. This applies not only in matters of organisation, or of the relations between the church and the

<sup>1</sup> H. Henson, *Disestablishment*.

citizen, but to questions of doctrine. The Church of England Assembly (Powers) Act, 1919, simplified the process of church legislation by providing that when a measure had passed through the General Assembly of the church it should only require a single resolution of approval by the two Houses of Parliament before going forward for the royal assent, but it retained thereby the supremacy of the King in Parliament. The actual link between church and State law-making machinery is provided by the legislative committee of the Assembly and the ecclesiastical committee of Parliament, the latter giving preliminary consideration to an Assembly measure, and its report being presented to Parliament together with the measure. The case of the revised Prayer Book revealed some of the chief difficulties of this situation. Having passed through the General Assembly with large majorities in each of the three Houses of Bishops, Clergy, and Laity, and having been approved by most of the Diocesan Conferences, it clearly represented the views and wishes of the overwhelming mass of active members of the church. Yet it was rejected on doctrinal grounds by the House of Commons. The position since that rejection, and as a consequence of it, has been that this revised Prayer Book is illegally in use in every diocese in the country, and that the bishops illegally refuse to take action against its use. Were they to do so they would of course be disobeying the solemnly expressed views of the church, but they would be obeying the secular authorities to whom they owe their appointment, and fulfilling the terms of the solemn oath they swear at their consecration to administer the Prayer Book of 1662.

Parliamentary organisation itself still contains a double recognition of the special position of the church. Clergy may not be members of the House of Commons because they are still presumed to have their separate representation and jurisdiction. The bishops still continue to hold the place they have always held in the House of Lords. The Archbishops of Canterbury and York, and the Bishops of

London, Durham and Winchester have the right to a seat; the remaining twenty one lords spiritual sit by seniority of appointment as bishop. The significance of their share in legislative authority has been reduced both by the great increase in the number of temporal peers and by the accompanying restriction to twenty-six imposed in 1847 in the spiritual peerages, but, although it is true that 26 voices among a potential 700 form an unimportant proportion there are nevertheless occasions when the opportunity of speech and of leadership in the Upper House exercises an influence on the Government, on Parliament, and on public opinion.

Probably of most significance in the system of the establishment is the fact that archbishops, bishops, and certain other high clerical officials are appointed by the Crown on the responsibility of the Prime Minister. This is hardly a situation which any churchman can contemplate with satisfaction, especially when as in recent years it is the exception for a Prime Minister to be himself a member of the Church of England. The fact that Mr. Chamberlain was a Unitarian led Lord Hugh Cecil into keen criticism of the system in the 1938 session of the Assembly.<sup>1</sup> It leads, moreover, to worse possibilities "I know one bishop," said Sir Thomas Inskip in evidence before the Archbishops' Commission on the Relations between Church and State, "who on more than one occasion solicited the help of his Member of Parliament in persuading the Prime Minister to make him a bishop"<sup>2</sup> Normally, no doubt, the M.P. is of small importance among the factors which determine ecclesiastical appointments. Without question professional eminence is one of the weightiest of these. The Sovereign, we know, often plays an active rôle in the selection; the advice of the

<sup>1</sup> See the *Daily Telegraph*, February 9, 1938

<sup>2</sup> *Report*, 1935 vol II p 102 Still worse occasions have not been unknown in the past when for instance, "one divine bet the King's mistress £5,000 that he would never be a bishop, and she won her bet, and he paid her." Quoted from *The Church Times*, October 2, 1891, in *The Case for Disestablishment*, p 80

Sovereign's personal friends among church dignitaries exerts some influence too. The acting or retiring archbishop makes recommendations directly or through friends to the Queen or to the Prime Minister, but the latter has the last word and the responsibility, and this means that both Court and political influence play their part in such appointments.

Queen Victoria was responsible for many high appointments in the church, of which that of Tait as Archbishop of Canterbury was one of the most important. On this occasion she overcame the original advice of Disraeli.<sup>1</sup> She even claimed that the nomination of the Dean of Windsor did not concern the Prime Minister. It is, she wrote, "*a personal, and not a political appointment, she will therefore not expect Mr. Gladstone to suggest names to her. The future Dean should be a person with whom she is pretty well acquainted and whom she can confide in . . . What the Queen wants is a tolerant, liberal-minded, broad church clergyman, who at the same time is pleasant socially . . . Canon Connor unites the different qualifications which the Queen has enumerated. She only regrets that he is not of higher social and ecclesiastical rank. But he is of good family and a thorough gentleman, and universally respected. He is an honorary Canon of Winchester, and father-in-law to the Bishop of Newcastle, and has been for some years Chaplain to the Queen*"<sup>2</sup>

The late Archbishop Davidson married a daughter of a predecessor in the primacy. His first preferment came from the Dean of Windsor, who wrote to Queen Victoria that he had "offered the place of Sub Almoner to his son-in-law Mr. Davidson, both as a mark of respect to the Archbishop, and because the young man himself is most highly esteemed"<sup>3</sup> When the primacy fell vacant in 1896 the Queen actively sponsored Dr. Davidson, now Bishop of Winchester. "He has all the experience," she wrote to the Prime Minis-

<sup>1</sup> Queen Victoria's *Letters*, Series II, vol. i, pp. 544-5.

<sup>2</sup> *Letters*, Series II, vol. iii, pp. 341-4.

<sup>3</sup> *Ibid.*, Series II, vol. iii, p. 331.

ter, "which his great intimacy with Archbishops Tait and Benson gives him. When the Queen was so anxious that he should be appointed to the see of Winchester the late Archbishop most urgently desired that he should go then to Winchester, for which see he thought him eminently fitted."<sup>1</sup> It was necessary for Lord Salisbury to plead the superior claims of Dr. Temple "unquestionably the greatest man on the English Bench." The Queen gave way, and to her disappointment Dr. Temple accepted. "There are only two possible competitors," Lord Salisbury wrote. "The Bishop of Winchester has more the manners of society and the knowledge of men. . . . But his health is bad, and very uncertain; he is young for an Archbishopric (only forty-eight), and he has done nothing to justify in the eyes of the public his rapid advancement, which is in consequence generally attributed to your Majesty's personal predilection for him. . . . On the whole, though with much misgiving, Lord Salisbury thinks that the Bishop of Winchester's previous career, and his intimacy with Archbishop Tait, gave him a moral and social power in the church, which the Bishop of Peterborough does not yet possess. He is disposed therefore to advise that, after the Bishop of London, the offer be made to Bishop Davidson."<sup>2</sup> The Queen indignantly repudiated the allegation of her own partiality and of the Bishop's ill health.

Some of the qualities making for promotion in the church thus became clear. That a man is a good preacher, of acknowledged piety, or of intellectual eminence is also in his favour. On the other hand, it is held against the eminent Bishop Temple that "there is a want in him, while very liberal, of dignity and refinement."<sup>3</sup> But a candidate is favoured because "he is moderate and a gentleman," and perhaps in that we come nearest to the mind that normally determines ecclesiastical appointment. That, in addition,

<sup>1</sup> *Ibid.*, Series III, vol. iii, p. 96

<sup>2</sup> *Letters*, Series III, vol. iii, pp. 94-100

<sup>3</sup> *Ibid.*, Series II, vol. iii, pp. 331-32.

political or semi-political opinion may play some part is indicated by Bishop Davidson's opposition, unsuccessful in the outcome, to the appointment of Lord Rosebery's nominee, Dr. Percival, as his brother bishop on the ground of his views on Welsh Disestablishment.<sup>1</sup>

Although the church of England has for so long been authoritarian, making its appointments from above and avoiding the representative or elective principle, it must be remembered, nevertheless, that the dean and chapter of a cathedral still go through the form of the exercise of their medieval right of choosing their own bishop. The selection takes place on receipt of the royal *congé d'élire*; but only the name in the royal Letter Missive which accompanies the order for election may be chosen. "The proceedings are opened," wrote the Rev. S. Tyacke, Rector of St. Levan, Cornwall, "with prayer to Almighty God to help them to a right judgment; next comes, as a matter of course, the election of the person named in the Letter Missive; and the shameless farce is wound up with a *Te Deum* in the Cathedral."<sup>2</sup>

The manner in which the ordinary clergy are appointed is still more curious. When we find a commission in the army regarded as a piece of private property originally created by the officer who raised a regiment, and passed on by sale from one to another, we are surprised that such a system could have continued into the second half of the nineteenth century. We find the explanation of its survival in its effect, most valuable to those who wished to link the control of the army with the propertied classes, of ensuring that only those should be officers who were gentlemen of means. But when we turn to the church and discover that even in the twentieth century a cure of souls is treated in the same way as in earlier times was an army commission, is regarded as a valuable piece of property, is bought and sold, we can

<sup>1</sup> *Ibid*, Series III, vol. II, p. 469.

<sup>2</sup> *The Congé d'Elire*, 1867, quoted in *The Case for Disestablishment*, p. 82.



scarcely be less surprised; nor can we fail to seek the explanation. The parishioners, together with the other liabilities or assets of a parish, such as—to quote from various advertisements offering the sale of such property—a large and comfortable vicarage, a good church with inlaid marble pulpit, pleasant society in the neighbourhood, opportunities of preferment, are hardly, as was perhaps the raising of a regiment, the product of original private enterprise. The richness of the endowments, which in the main governs the value of an advowson, depends on the charitable disposition of past donors and has no necessary connection with the succession of ownership of a living. Yet the right to present to a living was, and still may be, a valuable portion of an estate.

An investigator writing in 1878 revealed that "there are, roundly stated, 13,300 livings in the church, but of this number 4,800 are in the gift of the Crown, the bishops, etc.; 580 are in the gift of trustees, and in 21 parishes the people are actually supposed to have minds of their own, and are allowed to choose their own pastors. . . . The balance of saleable livings must be near 7,900, and the lowest estimate of annual value is four millions of money."<sup>1</sup> At that date 1,497 of these, or 19 per cent. were advertised for sale or exchange. The fact of purchase and sale, although it expanded and made more changing the sources from which nominations could come, is however of less importance than the close association which this system of clerical appointment involves with the propertied classes. If it was possible for a presentation to a living to be bought by her parents as the dowry for a curate's bride, it was first of all necessary for the curate's own parents to have been able to afford the expense for him of a university education. In any case, the more curious anomalies of this system were ended by the Benefices Act of 1898, and since the measure amending that Act was passed in 1923 advowsons may not be separately

<sup>1</sup> *Purchase in the Church*, p. 5 (published by Simpkin, Marshall, 1878).

sold after two vacancies have occurred subsequently to 1924. So that, although restricted in operation, the general principle continues. They still remain a form of property, sometimes of considerable real value.

The Church of England is not a single corporate body in law and therefore does not hold property as such. Its possessions are held within the church by various corporations aggregate, such as the dean and chapter of a cathedral, or corporations sole like the rector of a parish, and outside by such bodies as the Ecclesiastical Commission and Queen Anne's Bounty, which have been amalgamated since April 1948 to form the Church Commissioners. This Commission works mainly through its Estates Committee consisting of three Commissioners, one of whom is appointed by the Archbishop of Canterbury and two by the Crown, one of the latter being ordinarily a member or supporter of the Government in the House of Commons. The Commission itself includes the archbishops, bishops, five deans, certain ministers and dignitaries, and a number of laymen. It administers the estates vested in it, applying the proceeds under statutory directions; it has powers to create new ecclesiastical districts, and powers in relation to the properties of ecclesiastical corporations. The income of over five millions a year is derived from stocks, mainly Government, from land, other property, and housing estates. With regard to the last the Commissioners recorded in 1936 that "expenditure in connection with their housing schemes for the working classes is not undertaken as a profitable investment, but in conformity with a duty which they regard as laid upon them as landowners. The return which they expect to receive is approximately £3 per cent."<sup>1</sup>

Queen Anne's Bounty was a corporation created by Parliament, responsible for collecting tithe, which is the tax of one-tenth originally imposed by the State in Saxon times

<sup>1</sup> 88th Report from the Ecclesiastical Commissioners for England for the year 1935-1936. Cmd 5151. p. v. Return on gilt edged at this time was about the same.

for the upkeep of the church. Revenue of a little over two millions was distributed to the Church annually by Queen Anne's Bounty which, under modern legislation, collected from the tithe-payer an additional annual sum for redemption purposes. Beyond this the interest and dividends payable to the clergy from securities held by Queen Anne's Bounty had risen between 1920 and 1932 from £260,500 to £460,000.<sup>1</sup>

The total annual income of the church is very difficult to estimate, because there is a multitude of separate owners and authorities. In 1877 the settled interest of the establishment was reckoned as about six million,<sup>2</sup> not including the one million spent annually in the building and repairing of churches. One would expect that, with the increase in values since then, this income would at least not be less. In 1930 another estimate gives the total gross income of benefices as six and a half millions,<sup>3</sup> and adds the total of voluntary contributions to make a grand total of £13,356,349. By 1952 the Church Commissioners' income alone had reached £6,500,000 a year. As a Bishop of Durham reckoned that there were only 2½ million communicants in the church<sup>4</sup> above the age of 18, it will be seen that the 1930 grand total represented about five guineas per communicant.

These revenues are distributed among the three classes of bishops, cathedral clergy, and parochial priests. A few new bishops have been added since the earlier date cited above, and there has been some considerable reduction in the pay of this first class, where the scale now ranges from the Archbishop of Canterbury with £7,500, of York with £4,500, the Bishops of London, Winchester and Durham with

<sup>1</sup> W. R. Le Fanu, *Queen Anne's Bounty*, revised by F. G. Hughes, 1933, p. 123. These revenues are now assimilated to those of the Church Commissioners.

<sup>2</sup> *The Property and Revenues of the Church of England*, Fr. Martin, 1878, p. 136.

<sup>3</sup> As shown by the *C. of E. Yearbook*, p. 400.

<sup>4</sup> *Disestablishment* H. Henson pp. 42-43, cit. Rowse, "Church and State," *Political Quarterly*, July 1936.

£5,000, £4,500, and £4,000 respectively, to a number of bishops with £2,000. Forty-three bishops now have nearly £125,000 between them. In 1877 thirty bishops shared £163,000. These figures do not take into account the annual value of their residences, which would make their real income rather higher. Cathedral officials in 1877 had a total of £180,000, while the revenues of the parochial clergy were estimated at £4,277,000, excluding the value of their residences. These, reckoned at ten thousand in number, built at an average cost of £1,500, were worth an additional sum of about £750,000, making five millions, or an average of roughly £400 a year for a parish priest.<sup>1</sup> The 1939 view of proper clerical remuneration can be gleaned from the scales of pay for army chaplain. A permanent army chaplain of the fourth class, if unmarried, got £521, and if married £631. This rose through grades, a chaplain first class receiving £1,121, to the Chaplain-General with £1,395.<sup>2</sup> The average stipend of incumbents in 1921 was £426; of cathedral dignitaries £875, and of bishops over £4,000, not allowing for the value of their residences.<sup>3</sup> That there is undue inequality as between different classes, and as between different members of the same class, is the view of many prominent clergy. A committee was appointed which reported in 1924 commenting adversely on "the absence of any relation between the income of the benefice and the work to be done."<sup>4</sup> This refers especially to the fact that one vicar may receive £1,500 and another £300 for the same work, because of the different histories of the benefices.

<sup>1</sup> F. Martin, *op cit*, pp. 133-35. See also *The Case for Disestablishment*, published by the Liberation Society, 1894, Chapter IX.

<sup>2</sup> *The Revenues of Religion*, Alan Handsacre, 1932, p. 138.

<sup>3</sup> *Men, Money and the Ministry*, a Plea for economic reform in the Church of England, published by Longmans, Green & Co., 1937.

<sup>4</sup> Report of the Committee of Enquiry into the Property and Revenues of the Church, 1924, p. 23.

## II

The political tendency and influence of the church is not easy precisely to assess. The clergy form a profession which is recruited, much like any other, from the wealthy, or relatively wealthy. It enjoys an acknowledged position in the social scale. The bishops have generally been educated at one or other of the more expensive public schools, and usually at Oxford or Cambridge.<sup>1</sup> We do not often find they are socialists. Before the advent of the Labour Party it was rare for them to be Liberals. Although one or other of them occasionally voices a protest against some more glaring evil in social conditions, we do not find them consistently or corporately demanding reform. The church as an institution does not promote equality. While it derives a large portion of its income from the work of miners and from rents paid by the most poverty stricken classes, it does not raise its voice in favour of a more equal sharing of wealth or of opportunities. The record of the bishops in the House of Lords is not of an active promotion of education for the poor: rather is it the contrary, although there are exceptions. Nor do we find them bringing their influence to bear on their fellow-peers and on the Government to initiate factory legislation, to improve the lot of the coal miner, the shop-worker or even the office clerk, or to show the way to a constructive foreign policy of peace and disarmament. If it be said that this is not their function, it must be answered that it is their opportunity. We must remember that it should be the concern of all socially conscious citizens, and also that they accept a position within the State legislature which entails special responsibilities. In short, we may say, although occasionally one or other may put in a plea for the poor, the lowly or the peace loving, taken as a whole the bishops show the political and social tendencies that we should expect when we consider their social origin, the method of their appointment, and the size of their incomes. Nor must we forget that

<sup>1</sup> For some figures see my *Reactionary England*, p. 52.

they are for the most part men of considerable wealth. The probate value of the personal estates left by the bishops who died between 1856 and 1885 ranged from £12,000 to £140,000, with an average of £54,000.<sup>1</sup> And when a man enjoys a private income of the £2,000 or more that this represents he belongs indisputably to the small class of highly propertied people. While among the lesser clergy there are more and notable exceptions, it is impossible to argue that they have as a whole a more progressive attitude.

Bright once said "that wherever a new church was built men would find it a centre of political darkness," and he was attacked for it by the Bishop of Manchester. But in the controversy which followed it was shown without refutation that "the abolition of the Test and Corporation Acts, the emancipation of Roman Catholics, the admission of Jews into Parliament, the abolition of the Corn Laws, the opening of the universities, the disestablishment of the Irish Church, were all opposed by bishops and clergy in the proportion of thirty to one."<sup>2</sup> Yet everyone would admit to-day that these were actions of enlightenment. The bishops voted against the Reform Bill of 1831 by 21 to 2. Mr. Millbank, M.P. for the North Riding of Yorkshire, an eminent and liberal churchman, once complained that out of 700 or 800 clergymen in his constituency only ten voted for him. It was argued by a liberal protagonist in 1875 that all over the diocese in which he lived the clergy "lend rooms to the Conservatives, they dress up their scholars in blue and orange, and they appear on all public occasions as violent partisans of the Tory Party. . . . All the progress of the last forty years has been effected in the teeth of the clergy of the Church of England. They have at all times gone against the wishes of the people." That statement would certainly be echoed to-day by the great majority of non Conservative candidates.

<sup>1</sup> *The Case for Disestablishment*, pp 90-91

<sup>2</sup> See *Purchase in the Church*, pp 113, *et seq*, for the quotations of this paragraph.

This may seem, it is true, an exaggeration when applied to the church to-day. Times have changed. The Conservatives have absorbed the Liberals and taken over some of the theses of liberalism. The violence of clerical partisanship may in some places have diminished, especially where there has been a marked growth in the power and articulateness of the working-class, as in the towns. But if the political attitude of the clergy is more negative than it was, no one can doubt that it is on the whole exerted, consciously but perhaps more often unconsciously, in defence of the social and economic system as it is. And this means that the wealth and organisation of the church and its emissaries, in every village in the land, is an influence and an instrument for maintaining the social order on its actual lines. It is an instrument of discipline and a bulwark of unity. If, because of the diminished membership of the church, it is not so easy now to rank pulpit with platform and Press as a governing factor in the formation of public opinion, what influence the church exerts—and that is still considerable—is directed as an efficient propagandist instrument of the actual social system with its actual governing classes.

## Chapter XI

# THE EDUCATIONAL SYSTEM

### I

THERE is not one educational system in England; there are two, the private and the State systems. For a citizen educated at the first to send his children to the second is not only to lose caste, it is to deny them the opportunities of entering the professions or obtaining well paid positions which he himself enjoyed. No self-respecting parent, therefore, willingly contemplates such a possibility. Rather will he reduce his own standard of living or refrain from having children. The educational organisation of the country thus perpetuates class divisions of the past. If a successful business man who himself went to a State school, will normally send his son to the first category of schools, it is not solely because he can obtain the necessary introduction or afford the expense, nor because the education is better—for sometimes it is worse—but partly for social reasons—the social stamp which is given by a public school—and partly because he regards it as a good investment opening a wealth of opportunities to the child. Those opportunities are both economic and social in character, but their main charm lies in the access they provide to the governing class.

This feature of British education is undoubtedly the most important for those who are concerned with political and social organisation, yet far too little attention is normally paid to it. "The education in public schools," said Dr. Cyril Norwood, Headmaster of Harrow, "is good but it is a class education not possible for the poorer homes."<sup>1</sup> Yet these are the schools from which the professions, the higher ranks of the State services, and the controllers of the nation's industries and finance are almost entirely recruited. It may be doubtful whether there is any other Western country in

<sup>1</sup> Reported in the *Times*, April 1, 1935.



which the élite are separated from the common herd at so early a stage. Indeed Plato's dream of this early separation of the finer and baser metals comes nearer to practical expression in England than anywhere else. But it is not founded on any estimate of latent abilities. On the contrary, it is purely fortuitous, its only basis being difference in the wealth and social standing of the parents.

The first section of the British educational system is easy to describe. It begins with the private school, preparatory and secondary, which is run by private individuals or companies for profit. There are about ten thousand of these containing 400,000 pupils of all ages.<sup>1</sup> Many of them are excellent, some are scandalously bad, probably a majority suffer from serious inefficiency. They are not bound to conform to any standards other than those which impose themselves through competition.<sup>2</sup> They must win the confidence of parents, and to do this the proprietor must be a good salesman rather than a good teacher. It is an advantage, too, if he can shew results. A good record in the winning of scholarships or the passing of examinations is the main criterion by which the ordinary parent must judge. He does not know how far he can rely on the judgment of his children. He cannot inspect the teaching, and only six per cent. of these schools are under periodical inspection by the Board of Education. A committee was set up in 1930 by Sir Charles Trevelyan to enquire how far "the children attending such schools receive an adequate education under suitable conditions." It reported on this central point that its "witnesses were unanimous. They regarded the present position as seriously unsatisfactory and considered that some measure of public supervision was necessary." The defects alleged included a too wide range of ages, inadequate accommodation and sanitation, insufficient books and equipment, and above all quite improperly qualified teachers. The better private

<sup>1</sup> *Report of the Departmental Committee on Private Schools, 1932.*

<sup>2</sup> Eventually to be compulsorily registered under the Act of 1944.

schools themselves, through their "Independent Schools Association," have asked that "some means should be devised for encouraging the efficient and eliminating the inefficient school."<sup>1</sup> With regard to the latter, inspectors have estimated that about 15 per cent of all private schools are a "public danger," remarking, for instance, in one case that "the whole curriculum is a blind following of a worn out tradition," and in another "If any sort of efficiency in such subjects as geography, history, science, physical training, art, and so on were demanded as a qualification for recognition and continued existence, a large number of the private schools I inspected . . . would be closed."<sup>2</sup>

From the private school the next step is at the age of about fourteen to the public school. Here, in the public school, we have an institution which is symptomatic of all that is good and bad in nineteenth century English civilisation. Developed to train the children of the upper and middle classes for the professions and the higher ranks of the army, navy, and civil service, they draw their incomes generally from the high fees which have to be paid for education in them. These schools grew up for the most part in the nineteenth century, but some of them were founded much earlier for the benefit of the poor. It is noteworthy as a comparison between the ideals of renaissance and nineteenth century England that some which are now the most exclusive have this origin. The purposes for which they were founded and endowed are now often forgotten, and one at least—being especially restricted by the terms of its endowments—devotes the whole of them to giving scholarships at a local grammar school because "it is more profitable to sacrifice a large annual sum than to introduce elements that would lower the social tone and so the fees",<sup>3</sup> although in some cases there still remains an element of poor scholars with free places.

<sup>1</sup> *Report of the Departmental Committee on Private Schools* p. 30

<sup>2</sup> *Ibid.*, p. 27

<sup>3</sup> Arthur Calder Marshall, *Challenge to Schools*, p. 40

The ideal of the public school is the man of character who will be ready to fill the place in society which is prepared for him, to perform the duties of his station, to set an example, to be honest, to know how to give orders to his inferiors, how to co-operate with his equals, and how to conform to the pattern of behaviour established by the custom of his class. He is not expected to question fundamentals. Indeed to be interested in ideas, especially if they have any connection with the nature and origin of the society in which he lives, is sometimes thought bad form. To discover the pleasures of the imagination, of art and literature, the fascination of the things of the mind—that is not demanded of him. He ought to know enough of the classics not to be lost among the learned. The exercise of his intellect may be with history, provided it is of distant times or mainly of war and kings, or it may be with languages provided they are sufficiently dead. He may have a good education in the natural sciences. The exercise of his body may be conducted with great energy and much time may be devoted to it, provided always that sport has no practical or commercial use. In short, it is the education of an upper class called to privileged position, and as such it is in many ways admirable. It is mitigated and mellowed, moreover, by the Christian idea of service. Speaking of Thring, who did so much to form the ideals of the public school, Dr. Norwood says that "the rich boys must be made to help the poor boys (e.g. through missions in the slums) less for the sake of the poor boy than for the good of the souls of the rich."

## II

The State educational system was built on foundations laid by voluntary and charitable bodies. Some of the social attitude which regards it as charity still persists. Between the time of the French Revolution and the reform of Parliament one society after another was formed to promote the education of the poor. Bentham and Brougham were demanding

<sup>1</sup> *The English Tradition of Education*, p. 115

popular education as an essential condition of the democracy they preached. So was Robert Owen. While denominational schools were increasing in number, the need for freeing more advanced education from the restrictive control exercised by the church in Oxford and Cambridge was being met by the foundation of secular university colleges in London in 1827 and 1828 and in Durham in 1831. The recognition of social obligation found its expression in the first grant in aid of elementary education made by Parliament after the reform in 1833, and in the setting up of Brougham's Royal Commission to enquire into educational charities. But religious sectionalism now provided a problem which successive governments were unable or afraid to solve. The number of State-aided denominational schools grew, but teaching took place for less than a third of the year and most children left school at eleven. Not until the Act of 1870 were public authorities allowed to establish their own non-denominational schools. It is from this date that progress really begins, the number of school places being doubled in the next few years, attendance being gradually made compulsory, and the age of enforced attendance being raised in 1900 to fourteen. The Acts of 1899 setting up a Ministry of Education and of 1902 are the first to produce anything which can be called a State system. By the latter educational authorities were reduced from three thousands to three hundred, these being obliged to establish adequate elementary schools, and county and county borough councils being empowered also to provide higher and technical education. From 1902 there was a great development of the system through the co-operation of local authorities and the ministry. Certain powers to feed and medically to examine school children were given by Acts of 1906, 1907, and subsequent years. Nothing better reveals the great present value and the high standards of this work than the annual reports of the Chief Medical Officer of the Board of Education. Finally, the Act of 1918 did much to make teachers in State schools into a profession.

Of the 5½ million children in elementary schools in 1937 a little more than one tenth went to secondary schools.<sup>1</sup> For the great majority education finished at fourteen (as from 1939 it was to be, and now is, fifteen), just at the age, that is to say, when it is most valuable. The development of the public secondary school is very recent, as we have seen, dating only from the beginning of the twentieth century, but the many grammar schools of earlier foundation to which grants are given by local authorities must also be taken into account for they are inspected and controlled as to fees, free places and curriculum. Yet until 1946 within the State system itself differences were made between children whose parents could afford to pay and those who could not. There were, in fact, two ways of entry into secondary schools, one by scholarship giving a free place, the other by the ability and willingness of the parent to pay fees. While primary education has been practically free since 1891, fees being abolished entirely in 1918, secondary education was still officially regarded as the responsibility of the parent in some measure, and only for the exceptional child an obligation of the State.

The Education Act of 1944 and subsequent reforms have considerably modified these conditions—by prescribing secondary education for all children over the age of eleven, by raising the school-leaving age to fifteen (with the intention of its later becoming sixteen), and by providing for part-time training up to eighteen. They offer a welcome recognition that the responsibility of the State is not confined to securing that the child shall be taught the three Rs, but that it includes an education for life, citizenship and leisure. Practice has yet to reveal how fundamentally these reforms will affect the educational scene.

### III

Such, then, are some of the features of the system of early education. How far does it afford that equality of educa-

<sup>1</sup> *An Outline of the Structure of the Educational System in England and Wales* (published by H M Stationery Office), 1937, p. 36

tional opportunity up to the standard of university entrance which is one of the first prerequisites of democracy? To some extent the answer has already been suggested in general terms. Education up to fifteen is free and compulsory. It may even be that the child in the State elementary school, despite the unduly large size of classes and the low pay of teachers, is on the whole better taught than the child of the more wealthy family in the private school. But it still remains to be discovered how the opportunities of receiving further education compare between the two classes of rich and poor, of fee paying and non-fee paying. If we take the opportunities of securing such further education as spread over society as a whole, including the pupils of private and public, as well as State, schools, the differences based on wealth are striking.

An extremely valuable investigation into the correlation between ability and educational opportunity from a sample of over ten thousand children in all types of school has fortunately provided us with fairly exact data. The highly significant conclusion to which the investigators come offers the best possible comment on the system as a whole. "In the whole school population," they say,<sup>1</sup> "more than 50 per cent. of the able pupils are without the opportunity of higher education. While only three per thousand free pupils in secondary schools fall below the selected level of ability, the corresponding figure for the entire group of fee paying pupils (all of whom nevertheless enjoy the opportunity of a higher education) is nearly 50 per cent. In other words, taking children of equally high ability, seven fee paying pupils will receive a higher education for every one free pupil. Conversely, if we consider children who fall below the selected level of ability, for every one free pupil who is afforded the opportunity of a higher education, there are

<sup>1</sup> "Ability and Opportunity in English Education," by J. L. Gray and P. Moshinsky, *The Sociological Review*, April 1935, p. 160. They deal, of course, with the conditions prevailing before the post-1944 changes.

one hundred and sixty-two fee paying pupils who enjoy the same advantage."

Similar conclusions must be drawn from a consideration of opportunities beyond the secondary stage. That attendance at a university which is regarded in many countries as the normal culmination of a middle-class child's education is more restricted in England. There are about eighty thousand students in the twelve universities and five university colleges of England and Wales, the four of Scotland and one of Northern Ireland. University education is an expense which very few families can afford. It is true that scholarships are given by a variety of charitable bodies and county councils, and that the State awards 2,000 a year, but this by no means solves the problem, many of them in any case going to pupils in public and private schools. Even at this stage, again, there are important class differences. The two older universities of Oxford and Cambridge, with their rich endowments and their consequent ability to attract the best minds continue to be the universities of the upper class. Attendance at them confers a social stamp often of great economic and social value in later years.

Even so, the facilities provided by the university system for the higher education of the intelligent poor are quite inadequate to the real, as distinct from the effective, demand. This is proved, for one thing, by the enormous attendance at classes organised by such a body as the Workers' Educational Association, or at the vocational and further educational schools of local authorities and other institutions. Considerably more than one million, as compared with the 54,000 in the universities of Great Britain, were attending day or evening classes of this kind in 1936. For every full time student at a university there were twenty-five people who thought it worth while to go to evening classes after their day's work was done.<sup>1</sup> Here is a wealth of material

<sup>1</sup> See, for instance, *The Leisure of the Adult Student*, a statistical investigation, 1937

which is largely lost, both for fuller individual lives and for social well being.

This is confirmed by the Barlow Report, 1946<sup>1</sup>. "If university education were open to all on the basis of measured intelligence alone, about 80 per cent would be expected to come from those children who started their education in the public elementary school and only 20 per cent. from those whose education had been in independent schools. In fact, at the present time . . . elementary school pupils are only half those to be expected, and those from independent schools about three times as many as expected." The Report concluded "that only about one in five of the boys and girls who have intelligence equal to that of the best half of the university students actually reach the universities."

#### IV

Among the forces which determine social behaviour a country's educational system is clearly one of the most powerful. The way of life that is learnt in the school, the ideas that are taught there, the scale of values that is gradually picked up, the discipline that is imposed, find their expression in the adult life of the nation. Conversely, the educational system itself reflects the social ideas of those who rule the society. Indeed, it is highly necessary for their continued dominance that it should. Moreover, it is naturally from the resources made available by the educational system that the directors of the country's affairs must be recruited.

Running through the whole of British education there is a class division upon economic grounds. Segregation of the children of one class from the children of another is one of its guiding principles. That division even extends to their teachers. Dr. Norwood has pointed out that in their associations "head masters are divided into two classes, and that the ground of distinction is at bottom taken to be social."<sup>2</sup>

<sup>1</sup> *On Scientific Manpower*, Cmd 6824.

<sup>2</sup> *The English Tradition of Education*, p. 154.



That the principle has not been put forward consciously as a part of a consistent social philosophy in no way diminishes its effect. It merely means that it conforms to the regular pattern of British social activity. That is the way things are done in England.

One of the conditions for the maintenance of any social order is that the new generation shall be brought up to believe in its principles. That is fully realised by the modern dictatorship. But it is realised also by those who determine British social policy under its Parliamentary system. That bridges are formed, that scholarships are given, is a tribute to democratic principle, but the bridge is narrow and slippery, the scholarships few. They slightly mitigate the harshnesses, but they do not alter the basis, of the system, and since the system in all its essential features remains they are but a small price for its continuance. Although among teachers in private and public, as well as State, schools, the stirring of a new social movement is being felt and is having its effects upon the products of their schools, the general conditions nevertheless remain true. Children are taught to accept a social hierarchy based on wealth as the natural order of society. And no picture of Britain's political system is complete which fails to depict that most effective means of maintaining the *status quo*.

## Chapter XII

### PUBLIC OPINION

A common definition of democracy is "the control of political affairs by public opinion"<sup>1</sup> This, however, really adds nothing to our understanding. It carries us no further than the old concept "government by the people." Nor is it as exact as the definition "government by the majority." On some issues there is no public opinion. Frequently opinion is so divided either by the equality in number of those who hold and oppose it or by the conviction of an intelligent few opposed to the inert acceptance of an unintelligent many that no one can call it public opinion. Not seldom its nature is neither sought nor revealed. Elections or a special agitation may reveal it on some occasions, but in the often long intervals between such revelations the State is steered along a course set by a very few people. A violent wind may blow Sir Samuel Hoare from the wheel and send the ship careering in a new direction, but when it has died down he may be found quietly at the helm again and the ship calmly drifting on its old course or tacking skilfully to the wind. It is true, however, that the initial impulse of that course was given at one of these moments of revelation, at a general election, and in that sense it may still be said to be obeying public opinion.

With these limitations, then, let us accept the definition. Let us admit that public opinion—whatever it may be—or, better still, the opinions held by the public or sections of it, plays an important part in the government of England. Let us set aside the question how far public opinion controls political affairs in other systems of government, such as monarchies and dictatorships, realising that the vital question now becomes to discover what determines public opinion. Of course we must be contingently aware that in

<sup>1</sup> See for instance, L. Lowell, *Public Opinion and Popular Government*, 1914, p. 4

measure as it were found that the same people determine public opinion, and through the same means, in one country which is called a democracy we should be shewing on this definition either that the first was not a dictatorship or the second not a democracy, or that dictatorship and democracy might in practice be to that extent the same thing. In any case, if the makers of policy were the same the differences in the forms through which their decisions were applied would have that much the less significance.

Public opinion is made in England in a large number of different ways by a variety of institutions, several of which we have already considered. The Cabinet, through ministerial declaration and justifications of policy and by the mere fact of leadership; Parliament, through debates at Westminster and the speeches of its members throughout the country, as well as through its legislation; the parties—and also societies formed for special purposes—through the organising of campaigns—all have a direct and immediate share in making public opinion. More indirectly, but often no less effectively, the Civil Service with its drafting of statutes and orders, its piling up of information, its pressure on ministers, its judicious promptings of the right people. Royal Commissions; the parties, again, with their committees for thinking out policy; the Churches with their influence in the home and with the public platform they possess, the schools and universities with their influence over the future citizen's most impressionable years; even the judiciary with its interpretation of the "reasonable" or the "equitable", these have what might be called a long or longer term influence on the formation of public opinion. None of them is to be despised as an instrument of government.

#### THE PRESS

But the most important single factor in determining public opinion is the Press, and it is especially to this that attention

will be directed here. The first axiom of every democratic revolt against tyranny has always been freedom of the Press. The Press, however, for which freedom was demanded was a very different matter from that which supplies us with news to-day. What was meant was the liberty of the ordinary citizen to express himself in print on affairs of current importance without interference by the Government. The journals and pamphlets through which he did this generally had small circulation, and their costs of publication were always paid by those who were interested enough to read them. Such a "Press of opinion" still continues, but it is only a small fraction of the modern Press. When we speak of the Press to-day we mean its most typical expression, the big-circulation newspaper which is run as an industry for profit, and which is paid for in the main by the commercial advertisers who buy its space. While the old Press was always predominantly radical,<sup>1</sup> or at least progressive, being run by writers and thinkers, the modern Press shows a tendency to be conservative or reactionary, being controlled by wealthy industrialists. The total single issue circulation of newspapers, daily and Sunday, in Britain is about forty two million copies, of which some three million are officially Labour. Another fifteen millions display varying degrees and qualities of radicalism. the rest is consistently right-wing.

Concentration of ownership and control is the keynote of the modern Press. So high are the overhead costs of the factory which produces the newspaper that only the daily with a huge circulation can afford them. The tendency present in so many other branches of industry towards the elimination of competition by trustification has rapidly reduced the number of newspaper firms. Even a paper with a circulation of over three-quarters of a million has been unable to survive. It requires an extremely wealthy man

<sup>1</sup> See, for example, S. Maccoby, "Newspaper Politics: a Footnote to Nineteenth century History," in *Politics*, 1934, and the account of the Lords debate on the licentiousness of the Press in the *Times*, June 18, 1833.

to control a modern newspaper. The number of men who actually control the papers through which the great majority of British citizens get their information is phenomenally small. A few names such as Beaverbrook, Camrose, Kemsley, Rothermere, Astor, Layton, all but exhaust the list. Yet it is largely on the basis of that information that political judgments are made by the sovereign electorate, for its alternative sources of news—radio apart, which is discussed below—are restricted to the vocational Press which, though influential beyond its numbers, is limited in capital, infrequent in appearance, has often to obtain its non-vocational news from the ordinary Press, and therefore is more a Press of opinion than of news, and secondly, to the local Press which with an occasional exception has most of the bad and few of the good qualities of the national Press.—

The citizen is supplied, then, with his day-to-day information by a highly capitalised and trustified industry. The few owners actually in possession of this necessary instrument of democracy have little cause to fear new intruders. The initial outlay for a new paper is large enough to be almost prohibitive. As for already existing competition, it has recently been limited by agreement between the proprietors.

But the second characteristic of the modern newspaper is that it depends for more than half its revenue on the advertiser. If the proprietor determines what kind of facts the public should be told, and what "slant" shall be given to news his organ purveys, so also less directly does the advertiser. Perhaps he does so even more in the last resort, for without his custom the newspaper would be ruined. The public is not likely to learn much, for instance, of the conditions of employment among workers in the drapery trade, because the drapery stores are the newspaper's best customers. The advertiser's influence is, of course, normally a clandestine one. Rarely is there a specific threat of an advertisement boycott, and when it is made it may even be unsuccessful. This was the case with the threat alleged to

have taken place in 1931 to induce the *Daily Herald* to change sides.<sup>1</sup> The newspaperman knows how far he can go and what is taboo without being told anew in each case. Censorship, however, is no less real because it is tacit. Nevertheless the Royal Commission on the Press pointed out that no paper could afford to neglect or offend its readers at the behest of its advertisers, a paper doing so would "soon have neither advertisers nor readers to think of" wrote the Advertisers' Association. A newspaper losing circulation tends to lose advertising revenue too, and thus it is doubly difficult for it to give its readers what it conceives to be beneficial but unpalatable medicine. Public depression is bad for trade, and it is doubtful if advertising interests would not prefer papers to look on the bright side of every topic, though the chairman of the London Press Exchange assured the Royal Commission that advertising would not be reduced in an austerity-advocating paper "until we got evidence of a definite factual trend."<sup>2</sup>

The newspaper proprietors' power is more definite. They do not have to give orders to their editors, for they appoint the right editors in the first place. Lord Beaverbrook told the Royal Commission "You must give your editors . . . a great deal of latitude"; but "asked what happened when the editors took divergent views on an Empire matter, Lord Beaverbrook replied: 'I talked them out of it.'"<sup>3</sup> Though the leading article may be seldom read, or exhortations regarded, the selection made of news is virtually important. Even a Conservative Prime Minister, Mr Baldwin, has deplored "the power of being able to suppress everything a man says that you do not like, the power of attacking all the time without there being any possibility of being hit back."<sup>4</sup> The truth is that—emergency apart, about which there will be more to be said later—the real work of the

<sup>1</sup> See H. Dalton, *Practical Socialism for Britain*, 1935, p. 24.

<sup>2</sup> *Royal Commission on the Press*, Cmd. 7700, 1949, pp. 135-6, and

P. 43.

<sup>3</sup> Quoted by G. Blake, *The Press and the Public*, 1930, p. 20.

Press is done every day through countless suppressions and emphases.

Men in power, and still more men who aspire to power, have not been slow to appreciate the value of Press support. Proprietors may have been ennobled for such reasons. There is hardly a big newspaper whose owner has not for one reason or another become a peer.<sup>1</sup> The value of Lord Northcliffe was never underestimated by the highest authority. Lord Esher, that paragon among intermediaries between the King and public men, saw the importance of winning his support, especially for the Territorial campaign, and did not hesitate to cultivate his acquaintance and that of Kennedy Jones, his editor of the *Daily Mail*, to that end, despite a certain contempt for Northcliffe's education, mental qualities and political capacity.<sup>2</sup> Again, when the probable resignation of Balfour from the Conservative leadership raised the question of his successor, Lord Beaverbrook tells us of a meeting he arranged between Northcliffe and Bonar Law to secure the former's support of the latter, "or at least his benevolent neutrality."<sup>3</sup> On Lord Beaverbrook's evidence "one of Mr. Lloyd George's chosen friends" was Lord Riddell, owner of the *News of the World*.<sup>4</sup> Apparently the same statesman sought and obtained the support of Lord Beaverbrook and his papers for the election of 1918 and the one which he considered in 1921.<sup>5</sup> Similarly Mr. Bonar Law, although he never asked for the newspaper-owner's support, maintained the most friendly relations with him and was always sure that it would be unswerving. On the other hand, the proprietor has sometimes overreached himself when dealing with a man well established in power, who can the more readily afford to disregard him. Lord Northcliffe never obtained from Mr. Lloyd George the position of Lord

<sup>1</sup> On the society and industrial millionaire Press owner at one particular moment see Lord Northcliffe, *Newspaper Millionaires*

<sup>2</sup> Esher, *Memoirs*, vol. II, pp. 327, 371, 378

<sup>3</sup> Beaverbrook, *Politicians and the Press*, p. 105

<sup>4</sup> *Ibid.*, p. 22

<sup>5</sup> *Ibid.*, pp. 14 and 43

President of the Council which, according to Lord Beaverbrook, he demanded,<sup>1</sup> although the price which the Prime Minister had to pay was that the former's electoral support in 1918 was "out of the question." Also a claim, astonishing if correctly reported, is said to have been made by Lord Rothermere, as a condition of his help to Mr. Baldwin in a later election, that the Prime Minister should consult him in the selection of his Cabinet.<sup>2</sup>

Normally there is also much collaboration between government departments and the Press. The department is perhaps even more susceptible to Press attack than to Parliamentary criticism. It realises the dangers inherent in such attack, and on the other hand the importance of the services which the Press can render if propitiated, as, for example, in popularising some special activity such as the road safety campaign, air-raid precautions, or modernisation and development of the defence forces. Although for long the departments looked askance at the journalist, treating him as a vulgar intruder, his potential usefulness was seen by Joseph Chamberlain and others,<sup>3</sup> and now departments have their established channels of communication with the Press, often their Press officers, and the journalist is always assured of a welcome and generally of information.

This double collaboration of minister with owner, and administrator with journalist, has important further effects on the news. At special times it produces an extraordinary unanimity of news emphasis and editorial comment. Inspiration from those social circles in which move courtiers, ministers, industrialists, financiers, newspaper owners, was mainly responsible for the astonishing unanimity which developed out of discord at the time of the abdication. For months before this, information of the King's activities, with which every country outside England was familiar, was sedu-

<sup>1</sup> *Ibid.*, pp. 15-16. Lord Beaverbrook thought Mr. Lloyd George's refusal "showed great strength of character" and "admired his courage."

<sup>2</sup> G. Blake, *op. cit.*, p. 13.

<sup>3</sup> See Kennedy Jones, *Fleet Street and Downing Street*, 1919.



lously kept from the British public. Responsibility for this, as well as for removing the ban, attaches to the same circle. The common interest and social attitude of those belonging to it explains why there was unanimity as complete as that secured elsewhere by the cruder methods of censorship. This circle, controlling both Government and the Press, had no difficulty in dethroning a King, but had Government and Press been divided in control, as under a Lloyd George or Labour Government, there would probably have been patent discord and perhaps even a very different outcome. What is true of this comparatively unimportant emergency might be true also of a financial or other crisis. Especially, indeed, is it true of Treasury and Foreign Office policy. Where motives of patriotism can be drawn upon, the Press is particularly prone to accept inspiration from above. By suggesting the desirability of suppressing certain news or emphasising a special interpretation "in the national interest" a comparative Press unanimity is often reached which is favourable to, say, the flotation of a government loan or the conduct of diplomatic negotiations. Sometimes it is only from the foreign Press that a particular interpretation of British policy can be obtained. During the period of Anglo-Italian friction in 1935 British fleet movements of which the Continent knew were unannounced in the British Press. But again it must not be forgotten that this simplification of the business of Government is far more likely when the circles which control Government decision and Press policy are the same. When they are opposed it may be to the interest of the Press proprietor to damage Government credit or impede foreign policy. What is the strength of a reactionary government may be the weakness of a progressive government.

As has already been remarked, the real significance of the Press lies in its power of selecting news, in its power of suppression and emphasis. The political importance of this is peculiarly apparent in foreign affairs and in times of emergency. The reason in the first case is that the public

is less well informed, having few, if any, alternative means of discovering facts, and in the second that there is no time for special journals, like the vocational Press, or special organisations to work up an informed public opinion.

It may be said, to instance the two occasions most critical for the development of international organisation, that both in 1918 and 1919 for the Peace negotiations and in 1931 for the first serious infraction of the Covenant by aggression, the great bulk of the British Press expressed a narrow nationalist opinion and exerted a nefarious influence. Mr Walter Lippmann has instanced the reporter at the Peace Conference who, when so many momentous matters were being decided, was interested solely in the question whether the German fleet would be sunk in the North Sea, pointing out that "a million American adults learned all that they ever learned about the Peace Conference from this reporter."<sup>1</sup> "To get the whole truth," as Sir Norman Angell has said of the same period of war emotions, "to achieve the state of mind necessary for making a real peace at Paris—it would have been necessary to tell with equal emphasis of the human actions of the enemy, and of the atrocities committed even by the Allies, and to remind ourselves that if Americans were not to be 'outlawed from civilisation' for the weekly burning of negroes, or the British for Irish reprisals and Indian repression, the Germans could not be outlawed for conduct no more atrocious."<sup>2</sup> Dr. Johnson said that "in war-time a people only want to hear two things—good of themselves and evil of the enemy." Unfortunately a large proportion of the people want the same things even in time of peace. It might be truer, however, to say that in war-time the people, if their war spirit is to be sufficiently fanned, can only safely be told those things. It does not follow that they should be, especially in peace-time, although the natural tendency of the competitive Press is to pander

<sup>1</sup> *Liberty and the News*, 1920, p. 78

<sup>2</sup> Norman Angell. *The Press and the Organisation of Society* (revised edition, 1933). p. 23

to this type of feeling. It is a fact, as Sir Norman argues, that the emotional and primitive appeal tends to drive out the rational because the latter is more difficult.

In the case of the invasion of Manchuria by Japan, then a Member of the League, there was every reason in the public interest that the facts should be fairly stated. The future of international law and organisation, and perhaps the fate of the British Commonwealth was in fact at stake. World war was not an impossibility. Nor was there any British commercial interest immediately involved that might have given a special bias to the Press. The general public was ignorant on the subject. It is important therefore to know what chance the millions of newspaper readers had of securing a true and complete knowledge of the events in Manchuria. This question formed the subject of an investigation into the methods of Press treatment of foreign news which furnishes interesting results. There was, for example, a rumour of Russian intervention which received widespread notice in the British Press, although its truth was denied by Chinese, Soviet, and Japanese official statements. In the critical week we find the *Times* reported the rumour, using one headline, but none in its denial. The *Daily Express* and the *Daily Mail* gave long circumstantial reports of Russian intervention under big headlines, but the latter ignored the denial entirely and the former almost entirely. Analysis of the publicity given to the Japanese and Chinese cases respectively in the two critical months reveals that the *Times* devoted 1,379 inches to the former and 336 to the latter; the *Daily Express* 481 and 76; the *Daily Mail* 578 and 143; the *Daily Herald* 219 and 174; the *News-Chronicle* 343 and 261; the *Manchester Guardian* 683 and 591. Or put in another way, the first three papers above, which in their editorial columns opposed League action against Japan, gave respectively 79, 86, and 80 per cent. of the news space to the support of Japan. How many of their readers, then, were in a position to judge fairly between the two disputants? "The mass of the population of a country," Bertrand

Russell has said, "can be led to love or hate any other country at the will of the newspaper proprietors, which is often, directly or indirectly, influenced by the will of the great financiers. So long as enmity between England and Russia was desired, our newspapers were full of the cruel treatment meted out to Russian political prisoners, the oppression of Finland and Poland, and other such topics. As soon as our foreign policy changed these items disappeared."<sup>1</sup> Before the South African War "the *Daily Mail* in particular was held responsible for defaming the Boers and thus encouraging hostilities."<sup>2</sup>

Clearly, it is particularly in times of emergency that the Press becomes important. But over a period of time its partiality can only debase the public capacity for fair judgment. The Royal Commission, reporting in 1949, said that: "The Press is part of our political machinery, which is essentially partisan. But partisanship can and does on occasion lead to a degree of selection and colouring of news which can only be regarded as excessive . . . In popular papers consideration of news value acts as a distorting medium even apart from any political considerations . . . Consequently the picture is always out of focus. The combination day after day of distortion due to these factors with the distortion due to political partisanship has a cumulative effect on the reader. It results, where it is carried furthest, not only in a debasement of standards of taste but also in a further weakening of the foundations of intelligent judgment in public affairs."<sup>3</sup>

Sir Norman Angell rightly argues that "all revision of conceptions in the past has been the work of small minorities, of individual minds, of a few heretics, encyclopedists or pamphleteers, able to reach other minds for a sufficient length of time to break down the first prejudice. But the modern Press, by virtue of the psychological Gresham law

<sup>1</sup> *Roads to Freedom*, pp. 149-50

<sup>2</sup> L. M. Salmon, *The Newspaper and Authority*, 1923, p. 421

<sup>3</sup> Report of the Royal Commission on the Press, Cmd 7700, 1949

acting in the particular economic and industrial conditions of our time, tends to destroy that influence of that individual mind maintaining a heresy. If the feudalisms, autocracies, dynasties, and inquisitions had possessed the modern mechanical Press, operating on closely packed populations whose industrial occupations demanded most of their mental energy, that control of the mind by which alone the old tyrannies were made possible might well have been maintained for all time."<sup>1</sup>

The connections between the Press and the Government are a perfectly familiar feature of nineteenth-century England. The influence of Deane, as editor of the *Times* for thirty-six years, is a well-known fact. So is the part played by the *Pall Mall Gazette* in inducing Gladstone to send Gordon to the Sudan.<sup>2</sup> We find Greville writing in 1855, "the *Times* is going into furious opposition, and Palmerston will soon find the whole Press against him except his own papers, the *Morning Post* and the *Morning Chronicle*, neither of which has any circulation or any influence in the country."<sup>3</sup> But the Press of this period was of small circulation. It was expensive. It was open to widespread competition. The difference between it and the Press of to-day is that it was much more a Press of opinion, in which the editor, the writer, the thinker, exercised an influence dependent upon his ability. To-day it is the owner who influences, and his power depends not on the extent of his ability but of his newspaper property. It is significant that Mr. J. A. Spender should believe that during his thirty-three years of association with journalism the power of the editor has steadily diminished and the power of the proprietor has steadily increased.<sup>4</sup>

But how far, it must be asked, does this Press which influences governments and opinion in addition reflect opinion? If it could be shewn that the views of proprietors

<sup>1</sup> *Op. cit.*, p. 21.

<sup>2</sup> Salmon, *op. cit.*, pp. 395, *et seq.*

<sup>3</sup> Quoted *Ibid.*, from Greville, *Memoirs*, vol. vii, p. 242.

<sup>4</sup> *Ibid.*, p. 437.

coincided with those of the public or exactly reflected the variations of popular feeling, that would clearly be an argument in favour of the present organisation of the Press. But of course it cannot. Mr. A. J. Cummings, of the staff of the *News-Chronicle*, has no sympathy for those who, like Mr. G. D. H. Cole, wish to diminish the liberty of irresponsible Press millionaires. Yet he says that "the two paramount objections to the millionaire newspaper proprietor are, (1) that the gramophone voice as an expression of public opinion is often a fantastic and dangerous illusion, and (2) that millionaire proprietors are not prone to champion sincerely and consistently causes which do not appear to be in the selfish interests of great wealth. There have been conspicuous exceptions. But, generally speaking, wealth calls to wealth."<sup>1</sup> Mr. Kennedy Jones once said that "having a considerable circle of acquaintances in all grades of life I am able to check these Press views by individual opinions, and as a result I have found that, when expressed in percentages, fifty times the bulk of the papers partially and inadequately reflect general opinion; twenty times they do so adequately and accurately, and thirty times they are utterly at sea."<sup>2</sup>

In the summer of 1953, after considerable negotiation and delay, the General Council of the Press was established on a voluntary basis, following the recommendation of such a body by the Royal Commission. It differed, however, from that recommended in having no outside members, consisting of 15 editorial and 10 managerial representatives, nominated by such bodies as the Newspaper Proprietors' Association, the Newspaper Society, the National Union of Journalists and the Institute of Journalists. Its declared objects were to preserve the established freedom and to maintain the character of the Press "in accordance with the highest professional and commercial standards," to guard against monopoly and to improve the education of journalists. It was to deal with complaints only from those actually affected, and

<sup>1</sup> *The Press*, p. 41.

<sup>2</sup> *Fleet Street and Downing Street*, p. 307

was to deal "with such representations in whatever manner might seem to it appropriate and practical." It remains to be seen whether a Council containing no outsiders, having no power to enforce its decisions, and pledged to maintain the present character of the Press, will have any noticeable impact at all.

#### BROADCASTING

If change, however, has occurred increasing the significance of the newspaper proprietor, the appearance of broadcasting as a means of disseminating news provides a valuable corrective. This is in the hands of the Government in England in time of emergency. The general level and tone of the information it gives is in normal times good. It undoubtedly endeavours to give a fair selection of news. What is regarded as a fair selection will naturally depend in some measure on the scale of values by which importance is estimated, and that in its turn on the general philosophy and social background of those who make the selection of news. If Mr. Attlee's reservation to the Ullswater Report indicates a real tendency to autocracy and paternalism in staffing arrangements, or if the upper ranks are drawn from one small social class exclusively, or if narrow and rigid views are held by the authorities of the B.B.C., the consequence must inevitably be seen in the nature of the news service. There is need for more adequate supervision by the representatives of the public.

The connections between the Government and the B.B.C. are naturally close. Under its constitution the Postmaster-General has the right to veto any item, and government departments the right to require the inclusion of any statement. There are frequent addresses by ministers explanatory of their policy. This growing practice undoubtedly gives an advantage to the party in power, but it is probably desirable on the whole, if not abused. Clearly, also with such a system, close relations are maintained with government departments, especially the Foreign Office.

## THE GOVERNMENT

Government influence on public opinion is not easy to assess. Several ways in which it is exercised have already been suggested. The statesman's reputation, the fact that he is responsible for the consequences of his decision, the real or pretended need for secrecy in explaining his reasons, popular confidence in those who hold high office, the habit of following a leader and hoping for reward—all these things tend to increase the influence of the government of the day. The means of exercising such influence are many. Apart from those already discussed, such as Parliamentary debate, the B.B.C., the Press, the public meeting, none of which is exclusively enjoyed by the Government, there are important other methods. One of the most interesting of these is the Royal Commission. The Government may by its choice of the persons to serve on such a committee of enquiry, and by the powers it confers of summoning witnesses and publishing evidence and reports, create an atmosphere favourable to its measures or—as with the famous May Committee of 1931—favourable to a change of policy. Then there is always the Stationery Office whose valuable activities are capable of great extension. Direct advertising is not often undertaken, but the work in this direction of the Empire Marketing Board, through films and on hoardings, and by means of a special grant, is worthy of mention; again, this activity might be imitated in other fields. Advertising is also, of course, undertaken by departments such as the War and Post Offices, the Air Ministry, and by public utility boards. Were there a centralised government advertising office through which all such advertising should go, its influence on the Press would have to be further taken into account.<sup>1</sup> Finally, there is always the appointment of officials who are free to express themselves in public, and whose positions lend authority to their words, such as bishops, judges,

<sup>1</sup> Such as the Office, replacing the wartime Ministry, of Information.



and certain professors, and the members of certain advisory boards.

### RESTRICTIONS OF THE LAW

Liberty in the expression of opinion is limited by other factors. Leaving aside police action and the law of public meeting,<sup>1</sup> three aspects of the law should be briefly noticed here—libel, the Official Secrets Act, and the Incitement to Disaffection Act. The present operation of the law of libel has been described by Mr. D. N. Pritt<sup>2</sup> as a "grave obstacle to freedom of discussion," and as "a social evil grown almost to the dimensions of a racket." The interpretations given by judges and juries to the rule of innuendo is making even generalised comment dangerous. Publication of genuine research on the organisation of a particular trade has been made impossible in some cases because, owing to the dominant position of a single company, general criticism might be taken to apply to it. "The plain truth is," as the *Economist* remarked in a leading article, "that judges and juries with their fantastic attitude to libel are setting up a new censorship which, if developed, will kill that freedom of discussion which is vital to democracy. The law is intended to protect men from genuine defamation of character. It is being used to shelter them from criticism."<sup>3</sup>

The Official Secrets Act was passed as a straightforward measure to deal with spying. For that it is a necessary part of the national system of defence. But there are cases in which it seems to have operated to prevent the publication of material which is desirable for the due public discussion of public affairs, and as a screen for the bureaucrat. It has

<sup>1</sup> Of these I have endeavoured to give some account in my *Reactionary England*, 1936 ("Freedom and the Police," Chap. I), where I also deal with the operation of the Obscene Publications Act, 1857, and (in Chap. VIII) with the Incitement to Disaffection Act.

<sup>2</sup> *The Political Quarterly*, 1933

<sup>3</sup> May 2, 1935. How far this position has been modified by the Defamation Act, 1952, is uncertain.

been used against two members of the Government of 1929-31 to prevent in the one case publication of a document by its author, and in the other the reporting of a speech. In the Commons debate of December 15, 1937, on the subject of civil liberty, Mr. Weir remarked, after citing certain instances, that "if an author set out to write a history of contemporary politics he would find that he was on a very perilous adventure. The Official Secrets Act would be cited against him, and the law of libel used against him; he would be threatened with blackmail and his publisher would also be involved." The limitations set to the pacifist, Christian or otherwise, in the expression of his opinions in war-time is a well known aspect of the operating of the Defence of the Realm Act. Mr. Bertrand Russell was prosecuted not for revealing secrets, but for saying what he thought, and several men were imprisoned for disseminating his views.<sup>1</sup> Even Mr. Lowes Dickinson was put on the index. There was house-to-house search for pacifist literature. "There was nothing for which we had held up Imperialist Prussia and Czarist Russia to scorn during generations that could not be done under the law of Britain"<sup>2</sup> in this respect. The Disaffection Act of 1934 has done something to extend these restrictions to times of peace.

Questions as to possible expression of political opinions by foreign visitors to England are one of the factors which determine the aliens branch of the Home Office in deciding whether to refuse or admit entry. And from such decisions taken often enough by the official in an arbitrary way which allows for political and private favouritism, there is no appeal.

What may be said at meetings or printed in publications is governed also by the law relating to sedition and blasphemy, and the terms of the law are extremely vague, general, and capable of extensive application. Sedition, for ex-

<sup>1</sup> *Rex v. Bertrand Russell*, Report of the proceedings before the Lord Mayor, June 5, 1916

<sup>2</sup> N. Angell, *op cit*, p. 4.

ample, has been interpreted to mean the incitement of one class of His Majesty's subjects against another.

Officially no censorship exists in England. Its absence is one of the first requirements of democracy, and no one should be unmindful of the importance of this. But the restrictions of the law which do in fact exist are there to be applied at will by the police, the law officers, customs officials, and other bodies. Censorship always produces odd results, and the licensing of plays which is controlled by the Lord Chamberlain is hardly an exception. Housman's *Victoria Regina* could not be shewn to the British public until long after it had been seen in New York and elsewhere abroad. In such a case it may be more the influence of the Sovereign than of the Government which decides the issue, as also with the publication of books revealing the King's relations with his ministers, which is seldom permitted during his lifetime. It is not unknown for publishers, whether of books or journals, to submit material to the Palace for approval prior to issue.

In the case of films a clause in the Act of 1909, designed to give local authorities power to secure safety from fire, has been used to prevent the screening of films both of the standard and non inflammable educational kind. The greatest interest attaches, however, to other and unofficial forms of censorship, for this is the most typical method by which opinion is directed in England. The Board of Film Censors, for example, is an unofficial body, representing the trade alone, but its decisions seem to have all the force of law. Yet it does not account to the public for its stewardship; nor has the public any say in its appointment. How was it that the excellent film, *The Battleship Potemkin*, giving an account of a successful mutiny in the Tsarist fleet, was for long prevented from being publicly shewn? Yet, since it has been permitted there has been no noticeable change in the loyalty of the British Navy. How is it that film accounts of King Edward VIII's meetings with his future wife, as of his wedding, were kept off the British screen? Who determined

in 1936 that similar news should be cut out of foreign journals before they reached the British public, or that the record of the King's farewell speech, of which over a million sold abroad, should not be available in the country to which it was addressed? This unofficial censorship by a "gentleman's agreement" is—whether in any given instance it be wise or unwise—the really interesting feature of the British method. Of the general tendency of the agreement there can be no shadow of doubt. It would be revealing, for example, to make a comparison between the amounts of nationalist propaganda on the London news-screen—fleet movements, recruiting, air manoeuvres, etc.—and anything which could be called even mildly internationalist.

We have now seen some of the factors which determine public opinion. It is this public opinion which, we are told, ought to govern political affairs in a democracy. Indeed, that it does so is said to be the distinguishing feature of democracy. It is not necessary to repeat that often enough it is not united or firm enough to force the hand of a government determined to withstand it. When those who chiefly direct it are in general agreement with the Government of the day it does not present any serious difficulties, so does not need to be emphasised. Then, indeed, these factors become admirable instruments of government themselves, aimed at maintaining the social order of which they are both an expression and a defence. It does not by any means follow that the opinion which is uttered at such times is the only possible public opinion. But the really interesting moment comes when these factors determining it, or an important section of them, are hostile to the government of the day, and opposed to its most fundamental purposes. For then democracy may witness the use of these factors to discredit its political machinery and the men to whom it has given the duty and the right of control. In such an event the Government may even be overthrown, not by the normal political process, but by the conjunction of these factors with their allies among big business and high finance.

This has occurred in France and elsewhere. It is not without relevance to the happenings in Britain in the political crises of 1931. If we are to cite it as another example of "the control of political affairs by public opinion," then we must know quite clearly what we mean by public opinion and how essentially unpublic it can be.

## Chapter XIII

### DEMOCRACY IN ENGLAND

#### I

THE concept of democracy derives from a compound of two ideas, equality and individual liberty. Since these may be applied in various measure and do not necessarily harmonise, the result will shew different characteristics according to the relative emphasis. Therein lies one source of confusion. Again, democracy means sometimes a conception of society as society should be, and sometimes a particular method of government. As such it degenerates often enough from a scientific term to a weapon of polemics. Because of this double use the virtues of the ideal can be unconsciously attributed to the actual, whether it be of social or political organisation that we are thinking. Or alternatively, the defects of an imperfect political example may be taken to prove that it is a philosophy based on misconceptions.

It is not surprising, then, that democracy should be a term responsible for much confused thinking. The social sciences suffer because their scientific terms are words of popular language. That is a commonplace; but if it means that a false antithesis can be drawn between given "democracies" and given "dictatorships" and used to range them, on a pseudo-scientific basis, at different sides in a modern ideological conflict, it may be in this case be a common place with far-reaching consequences. For the plain fact is that neither the word nor the concept of democracy helps us to choose between an egalitarian dictatorship and a system of representative government grounded in inequality. It certainly does not suggest that all the virtue is on one side.

For when we are considering government in a particular State, we need above all to know where the real source of decision most often lies; we have to go behind the machinery. If we are comparing two countries and find that the

sources of decision in them are broadly the same then, although one may work through a libertarian system and another through an authoritarian system, we know that they will reveal many common features and pursue many common courses of action. Nor does it suffice to enquire whether "public opinion" or "the people" determine government policy for, as we have seen, public opinion may mean several things and be created or expressed in several ways, and as for the people, they are a limiting factor in some measure in all forms of government. there are always areas upon which a government dare not venture. We may more usefully attempt to discover the extent of the influence of certain sections of public opinion and the speed with which it operates

We need also to know what liberties are secured. It is not enough to consider those liberties which seem important to a middle-class intellectual, to read and write and speak and vote and join in certain hallowed emotional pleasures. If we attach too much importance to these, relatively to such other more mundane prerequisites as the mere freedom to exist, to work, to have food, shelter, leisure, economic security, careers open to talent, those who lack the prerequisites will have less concern for the more intellectual freedoms. They may even turn in welcome to an alternative system which despises the middle-class intellectual, and while denying liberty of the mind gives some hope of securing the prerequisites. A working man is often less interested in the right to associate and to form a trade union than in the enjoyment of the standard of living to the attainment of which the trade union is merely a means, if he can get the end without the means—or by an alternative method—then so much the worse for the means. The interest of the trade union official in preserving the trade union must not be mistaken for the interest of the trade union members in achieving the purposes which the union was formed to serve. It may be that freedom of association in particular, and freedom of the mind in general, is essential to the dignity

and self-respect of the individual. It does not follow that no one who has once realised this will be content to forgo it, particularly if economic circumstances have in fact precluded him from fully realising it. He may suffer from a sense of frustration which will render him an easy victim of emotional appeal, and that emotional appeal may still further strengthen his rational suspicion that the liberties do not much affect himself.

Democracy, indeed, can only be understood in modern times in its historical context and by relation to the period which gave it birth. It is a revolt against the claims of hereditary privilege to the sole exercise of power. It is a reaction to the evils of government by, and in the interests of, a royal court and a feudal nobility. Expressing the demands of industry and the middleman against the landed aristocracy, *it represents an alliance between the merchant class and religious protestantism*. Democracy is contemporary with the growth of capitalism.

This new class, however, whose social significance is based on capital investment and not on the ownership of land, has none of the claims to authority of those whom it supplants. It cannot, like kings, assert a divine right to command. Nor has it the traditional leadership of a leisured and cultured aristocracy. It proclaims, therefore, that divinity is revealed through the inner light of individual conscience, and that true aristocracy is government by those who have proved themselves to be the best in a competitive struggle based on equal opportunities. Forced by circumstances to enter into a covenant with egalitarianism, it has no desire nevertheless for unfettered control by a popular majority. Immediately it is faced with this danger it gravitates instead towards alliance with the governing class it has replaced. It discovers that divinity in the people requires to be checked by balances in the mechanics of power. The Queen is retained if she is willing to remain normally inactive, both as a useful emergency check on popular sovereignty and as a buttress of the newer order. Or, failing an acceptance



of this role, there is a president to undertake it. The nobility are retained on similar terms and for similar reasons; but being more powerful and being also more susceptible of penetration by the newer forms of wealth, they are allowed a more active share in government. If, however, they claim too much or are too exclusive they are weakened, or replaced by a Senate. And then, thirdly, there gradually grows upon the consciousness of the new rulers a realisation that wealth itself is power, and that behind the forms of representative government—even of an extending representative government—a real, non popular dominance can for long be maintained.

But the acceptance of an egalitarian principle as the ultimate foundation of authority is a source of weakness. Hostages have been given to the common man. It means that new acknowledgments of popular sovereignty must be made in the shape of a widening franchise and of social services. The newly enfranchised, however, also have their compensating weaknesses. They are ignorant, so "we must educate our masters." The nature of the educational system therefore becomes fundamental. To ensure its classification on the proper social lines, to ensure that it is directed by the right people, and made to fit political and administrative needs becomes a vital requirement of policy. The people are politically unorganised, so political parties must be formed to canalise their energies. These should as far as possible be brought under central control, but they will in any case shew centripetal tendencies and move towards compromise. The people are largely emotional and irrational in their judgments, they should therefore be provided with symbols of emotional appeal to ensure their unity and to guarantee their loyalty to the order of things as they are—the monarchy, the nation, the empire, the leader, the constitution. And if they require, as Carlyle said, "to worship in some way" the church is there to provide them with opportunities of satisfaction at the minimum of risk to the established order, to express ideals in a form compatible with the in-

terests of its earthly sister, the state. The people must have information; so the direction of the organs which purvey it, in such a manner that it will produce desirable judgments, becomes a necessary end of policy. And finally, the state's functions, civil, military, and judicial, must be carried out under a direction that reflects the attitude of the dominant section of society.

It follows, therefore, that in democracy thus understood there is an inherent conflict. The source of the philosophy upon which it is built lies in the twin principles of liberty and equality. They are incompatible with an authoritarian state. Political institutions must bear some relation to them, Parliamentary government is the most usual form of such institutions. But the reality of power behind these may closely resemble that in an authoritarian order, the result being disciplined, unequal society with its restrictions on "dangerous" liberties or on "extremism" may be not unlike the unfree order with which it is superficially contrasted. Although such a conflict of principle and practice may continue for a time, so soon as an exceptionally severe strain is put on the society new accommodations must be found at the expense either of the principle with a return to frank authoritarianism, or of the practice with a movement in the direction of a fuller realisation of principle.

For the gaps in democratic thought are instinct with risk and confusion. The most important of these are three. There is first its failure to pay adequate attention to the need for social and economic equality as a foundation without which political liberty may be rendered unreal. That failure is due sometimes to the belief that such equality will be the unavoidable outcome of political liberty, and sometimes to absence of interest in or desire for economic and social equality. There is secondly its assumption that men always judge and act rationally, and that they can be brought to appreciate their true interests by persuasion. That assumption argues an insufficient knowledge of psychology. And finally, there is its lack of concern with the institutional re-

quirements for expressing and implementing popular judgment. That is attributable in part to its association with an optimistic belief in the inevitability of progress along the lines suggested by its premises, and therefore a certain absence of interest in such "details" as the separation of power, bicameralism, or the property vote. It is attributable also in part to the desire to maintain checks on popular government as a safeguard of property and of other vested interests.

## II

The growth of democracy is contemporary with the development of nationalism. Emphasis on the sovereignty of the people does not necessarily, it is true, imply the division of the people of the world into a number of different "peoples." Still less does it mean that the division must be based on national or racial factors. Some democracies contain different ethnological groups. Switzerland has a fairly even division between its French-speaking and German-speaking inhabitants; in other countries, like Britain, Belgium, Canada, South Africa, Czechoslovakia, the division is more unequal. In further cases contiguous territories ethnologically single are politically diverse, such as Sweden, Norway, Denmark. But in practice stress is laid to the greatest possible extent on national characteristics, a cultural heritage, common language, institutions, or traditions, and thus cohesion internally is strengthened at the expense of international community. This is true even where federalism has provided the solution of domestic differences. The argument that a nation exists despite federal diversities is a marked feature of the nineteenth-century history of Switzerland and the United States, especially after civil war had revealed the measure of its absence. The federal principle which alone offers an answer to international war as well as to group conflict has been applied only in limited areas, and has shewn always a tendency to develop towards a unitary state. The reason for this is not different from the

reasons for the growth of the unitary nation state. Internal order requires a sufficiently strong central authority to impose it. So does national defence. Economic advantages in the shape of the abolition of internal trade barriers and the creation of a single market flow from its existence. It provides also a state-power strong enough to pursue an imperialist policy that will secure opportunities to the home investor, to the merchant anxious for new fields to exploit, and to the aspirant for administrative office overseas. Nothing is more useful for the building up of a strong state authority than nationalism. Any movement of international federalism can only take place at its expense. Here again, therefore, there is conflict in democratic ideology. At its birth it expresses the rights of man as common to the members of all nations, and the French revolutionaries issue an appeal to the peoples of Europe, challenging despotism everywhere. Federal implications clearly are contained in such an attitude. But later those who act in its name win empires over which to govern, where its writ no longer runs, and the rights of man become the rights of Englishmen, Americans, Frenchmen, Germans, operating within a limited national field.

The wedding of democracy and nationalism has certainly not rendered democracy productive of world order. On the contrary, international anarchy has been the price paid for this method of strengthening the internal cohesion of the state. But anarchy in the external field has not failed to have its repercussions on internal political organisation. Often enough it has acted as a boomerang to return and destroy the movement that projected it. That libertarian government even within democracy largely disappears in time of war is too obvious to need emphasis. What is not always so clearly seen is that the needs of the state in a world of sovereign states include a military machine that is difficult to keep in subjection to the civil power even in time of peace, and which at moments of civil discord is peculiarly liable to overthrow its creators. This is the lesson to be

drawn from the connections between the Reichswehr and National-Socialism in Germany, from the Franco revolt in Spain, perhaps also from the Boulangist and Dreyfus episodes, and certainly from the Bonapartist experience in France. That it is not entirely irrelevant to British history has been suggested above. But the needs of the state in modern international conditions must also include the organisation of means of education and propaganda conducive to national unity. What is taught in the schools and churches, what is said in the Press, on the platform, over the radio, or is written in books must always be governed—in measure varying with the risks—by the requirements of state defence. Liberty may be a danger, as John Stuart Mill himself recognised, to national strength when a country is threatened from abroad. As the international conditions of the modern world constitute a perpetual threat, there must always be, so long as those conditions subsist, a tendency to curtail if not to destroy liberty.

Attention has been extensively drawn to the marked development of this tendency in recent years.<sup>1</sup> It is in strong contrast to the growth of freedom which took place up to 1914. Of freedom of speech, as Professor Chorley remarks, "it is so essential that on the foundation of an authoritarian state it is always the first right to be destroyed. In England it has not been so drastically attacked, but it is being gradually undermined in a way which may eventually leave but little more of the right to Englishmen than has been left by Hitler to the Germans or by Mussolini to the Italians."<sup>2</sup> The two conceptions of sedition and defamation are so vague that it is possible for a reactionary judge or jury to use them in order to undermine freedom of speech. The law of sedition has been greatly extended. Statutes which had long lain dormant have been revived in order to stifle left-wing

<sup>1</sup> See above, Chapter XII, also R. S. T. Chorley, *The Threat to Civil Liberty* in *New Fabian Research Bureau Quarterly*, No. 17, also W. H. Thompson *Civil Liberties*, 1938, and H. J. Laski, "The Outlook for Civil Liberty" in *Dare We Look Ahead?*, 1938.

<sup>2</sup> Chorley, *op. cit.*

political propaganda: this is true of the Seditious Meetings Act, under which the veteran Socialist, Tom Mann, was imprisoned. The extension has been used particularly against pacifist activities. Because of the Incitement to Disaffection Act of 1934 printers have already refused to print pacifist literature. The law of defamation is such that while middle class juries award big damages against left wing speakers, writers, and journals, it is very difficult for that section of the public to obtain the same protection. Public meeting has been severely restricted by police edicts and actions of doubtful legality, but when successful legal action has been taken against the police the result has been the passing of new laws giving them the powers they had previously illegally exercised. The Public Order Act, 1936, is a further example. Passed on the ground of Fascist menaces to the public peace, it has been used against industrial strikers, and to prohibit meetings and processions by progressive organisation. As Dr. Wade, the Cambridge constitutional lawyer, has said, "there is now no assurance that unless police permission is secured in advance that a meeting can be held anywhere in a public place" it can so be held, although free public meeting is one of the most elementary requisites of democracy<sup>1</sup>

### III

The coming of democracy to England has been gradual, and no revolution since 1688 has been necessary to secure it. The early development of parties rendering effective the power of Parliament is in the main responsible for this continuity. But the absence of revolution for two hundred and fifty years has left both in the political system and in society many relics of the feudal period. If these relics have been shorn of the greater part of their power, and in politics to-day exercise influence rather than authority, they constitute nevertheless a reserve power which may yet from time to

<sup>1</sup> Chorley, *op cit.*

time be recalled into being, and they serve to strengthen the state authority at normal periods. In ordinary practice they provide, moreover, a channel through which persuasion or pressure can be brought to bear on those actively and officially responsible for government.

But the key to the efficient working of the British Constitution is to be found neither in kings and aristocracy, nor yet in their acceptance in normal times of relegation to a subordinate sphere. It lies in the strength of the upper middle class which has replaced them, a class which is no closed oligarchy, but which expands upwards into the aristocracy and submits to borderline recruitment from below.

It is the integrating factor which makes the political mechanism work in a harmonious way, for it fills the chief positions in the Executive, the Legislature, the Judiciary, the administrative services, the Church, the Army, and it controls the Press, finance, and industry. At the same time it effectively segregates the rest of the community in their own schools and in their own categories of economic activity. It provides a complete co-ordination between the political and the social structure. Those who have economic power have also the political power. The best paying methods of earning a living are its monopoly. It permeates the professions; and industry itself by which it rose and won its dominance over the land-owning interest becomes increasingly limited in its directive posts to its own more wealthy members.

That there has been some development towards social equality in England is as indisputable as that there has recently been some movement away from even the nineteenth-century middle-class conception of liberty. From the poor law reform and factory legislation of a century ago we have moved to an extensive educational, health, housing and pensions service which operates in the direction of equality. The franchise has been extended to remove the property qualification and the grant of more than one vote, with subsidiary effects on the delineation of certain constit-

uencies. Taxation has been developed to produce a heavy incidence on the more wealthy section of society, though until the second world war it had not materially reduced the unequal distribution of the national income. The socialisation of a few public services and the growth of some new ones under social and municipal control is a move in the same direction, although it is only now affecting the key industries or the most profitable ones. There has emerged a party quite distinct from the middle-class parties of the nineteenth-century. This party has seriously changed the class basis of Parliament and of the Cabinet. But much of the essential quality of the Constitution, its integration by a single dominant section of the community, still remains. The interesting question that emerges is how far the political system is likely to shew continued efficiency by ensuring that its wider social representativeness is reflected in the administrative, military, educational, judicial, professional, social and economic services, and in industry and the Press, and that a harmony of outlook thus continues to mark those enjoying the chief opportunities of exercising influence and power.



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